

Disciplinary and Other FINRA Actions

Firm Fined, Individual Sanctioned

Lampost Capital, L.C. (CRD® #43706, Boca Raton, Florida) and Gregg Allan Pollack (CRD #2653630, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Pollack was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for two months. Without admitting or denying the findings, the firm and Pollack consented to the described sanctions and to the entry of findings that the firm, acting through Pollack, failed to adequately implement its anti-money laundering (AML) program, so it did not identify suspicious trading that occurred in two accounts. The firm's AML program required Pollack, its chief compliance officer (CCO), to monitor for potentially suspicious activity and AML "red flags," investigate potentially suspicious activity, and report suspicious activity by filing a SAR-SF form as appropriate. The customer's accounts and the trading in those accounts raised a number of red flags identified in the firm's procedures, but the firm, through, Pollack, did not adequately investigate and respond to them. The findings stated that the firm failed to ensure that an adequate independent AML test was conducted one year because the test failed to adequately assess the firm's compliance with its AML procedures. Despite the fact that numerous AML red flags associated with both accounts were apparent in the received and delivered blotter and wire order log, the tester did not note the red flags or explore whether the firm detected the red flags or conducted due diligence in response to such activity, both of which were required by the firm's procedures.

The suspension is in effect from February 19, 2013, through April 18, 2013.
([FINRA Case #2008011702301](#))

Firms Fined

Advisors Asset Management, Inc. (CRD #46727, Monument, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that FINRA conducted a review of the firm's municipal transactions and found transaction reporting errors, inaccurate capacity disclosures, inaccurate transaction classifications and inaccurate capacity information on the firm's internal order memorandum. The findings stated that with respect to these violations, the firm has corrected these issues. The findings also stated that the firm did not have written supervisory procedures (WSPs) reasonably designed

Reported for March 2013

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

to achieve compliance with Municipal Securities Rulemaking Board (MSRB) rules concerning reports of sales and purchases and customer confirmations. The firm's reports of sales and procedures relied upon MSRB "not affirmed" emails to ensure compliance. The firm's customer-confirmation procedures were inadequate in that they did not call for a review of the firm's delivery versus payment/receive versus payment (DVP/RVP) confirmations. The findings also included that FINRA's review of the firm's corporate bond trade reporting disclosed that there were some transactions reported where the execution time was inaccurately reported in a non-military format, transactions were reported with an inaccurate execution time, transactions were reported inaccurately with the P1 modifier; an erroneous inter-dealer trade was reported that never actually occurred and two transactions were reported with extra reverse transactions. ([FINRA Case #2011026883101](#))

Allied Beacon Partners, Inc. (CRD #46227, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to develop and enforce written procedures reasonably designed to achieve compliance with NASD Rule 3010(d)(2) regarding the review of electronic correspondence. The findings stated that the firm failed to enforce its written procedures requiring a designated principal to conduct a daily review of business-related electronic correspondence and evidence that review by initialing the correspondence, and failed to enforce its WSPs regarding heightened supervision. The firm failed to place representatives under heightened supervision when its procedures called for this action based upon the representatives' derogatory regulatory history, and failed to implement the heightened supervision plan it had developed for another representative. The findings also stated that the firm made commission payments to representatives in its branch offices through non-registered entities. Those entities were owned by the principals of the branch offices and were entities through which they conducted business. The findings also included that the firm prepared and distributed executive summaries for certain private offerings that did not provide a sound basis for the investment returns/yields and income, and failed to provide an explanation concerning how the monthly income, annual income or cash yields were derived. The executive summaries failed to provide a sufficient balance of the risks and potential rewards associated with the investments, given that potential annual yields are presented on multiple pages in a manner that suggests that investors will positively receive the return without any caveats or conditions disclosed. FINRA found that the firm prepared presentations regarding companies that omitted any discussion of the risks associated with an investment, which, according to the offering documents, were significant, thereby failing to provide a sound basis for evaluating the product. The firm's branch offices created websites that included testimonials, but failed to disclose the fact that the testimonials may not be representative of the experience of other clients, the fact that the testimonials are no guarantee of future performance or success, and, if applicable, whether the firm paid for the testimonials. The websites contained various statements that were exaggerated, unwarranted and/or misleading. ([FINRA Case #2011025598801](#))

Archipelago Securities L.L.C. (CRD #102500, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its WSPs regarding Order Audit Trail System (OATS™) reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate destination codes and market participant identifiers (MPIDs). The findings stated that the firm's supervisory system did not adequately provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. ([FINRA Case #2011029631601](#))

The Baker Group, LP (CRD #7888, Oklahoma City, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$16,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report S1 transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible agency debt securities to TRACE within 15 minutes of the execution time. The findings stated that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securitized products. The inaccurate reports of securitized products constituted 33 percent of the matched inter-dealer reports the firm submitted to TRACE during the period. ([FINRA Case #2011027521501](#))

Barclays Capital Inc. (CRD #19714, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$42,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in reportable securities in the FINRA/NASDAQ Trade Reporting Facility (FNTRF) within 20 minutes after execution when, as the order entry identifier (OEID), it was required to do so. The findings stated that the firm effected transactions in securities while trading halts were in effect with respect to these securities. ([FINRA Case #2010023164201](#))

Barclays Capital Inc. (CRD #19714, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it captured inaccurate trade times for an MPID, which resulted in the firm's failure to report information regarding purchase and sale transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of trade time, report the correct trade time to the RTRS in municipal securities transactions, and show the correct entry time on the trade memoranda for transactions in municipal securities. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with the applicable securities laws, regulations and MSRB rules concerning municipal trade reporting for the MPID. ([FINRA Case #2011028810101](#))

The Benchmark Company, LLC (CRD #22982, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$72,500, \$10,000 of which was joint and several with two individuals. 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 written supervisory control policies and procedures that identified producing managers, ensured designation of supervisors for producing managers, and were reasonably designed to provide heightened supervision over the activities of each producing manager responsible for generating 20 percent or more of the revenue of the business units supervised by the producing manager's supervisor. The firm failed to enforce its written supervisory control procedures concerning the calculation of the 20 percent threshold. The findings stated that the firm failed to establish, maintain and enforce written supervisory control policies and procedures reasonably designed to review and monitor all transmittals of funds or securities from customers to third-party accounts, to outside entities and/or to locations other than a customer's primary residence; customer changes of address and the validation of such changes of address; and customer changes of investment objectives and the validation of such changes of investment objectives. The findings also stated that the firm failed to submit to senior management annual reports for two years detailing the firm's 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 firm, acting through its co-chief executive officers (CEOs), caused them to certify annually that, for the two years, the firm had processes in place to establish, maintain and review policies and procedures reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations, but failed to evidence such policies and procedures in a written report for the co-CEOs to review. The findings also included that the number of sales personnel the firm employed increased, which constituted a material change to the firm's business, but the firm failed to obtain FINRA's approval before initiating this material change in its business. The firm failed to conduct an annual internal inspection of the activities of an Office of Supervisory Jurisdiction (OSJ).

FINRA found that the firm failed to implement procedures contained in its anti-money laundering compliance program (AMLCP) concerning monitoring accounts for suspicious activity. The report used to monitor suspicious activity the firm reviewed was limited to retail customer accounts and did not include transactions institutional clients conducted. The firm's AMLCP failed to describe the procedures to be followed in order to monitor the accounts of its institutional customers for suspicious activity, which constituted the vast majority of the firm's business. Despite the fact that its AMLCP did not describe any review for institutional customers, the firm's former AML compliance officer (AMLCO) stated that he reviewed those accounts for suspicious activity by reviewing daily trading activity reports. Such reviews were inadequate because they did not allow for the detections of patterns that could indicate potential suspicious activity. Nor were such reviews for suspicious activity documented or otherwise evidenced. FINRA also found that the firm's

procedures regarding the review of institutional accounts were not reasonably designed to detect and cause the reporting of transactions required by 31 U.S.C. 5318(g) and the implementing regulations thereunder. A review of accounts opened over a period of time showed that the firm failed to implement those procedures in that it failed to verify the identities of new customers. The firm's written AMLCP was inadequate because it failed to address the monitoring for new designations under the Patriot Act and the implementation of special measures accordingly. The firm executed transactions for customers but failed to conduct independent testing of its AMLCP for a calendar year. In addition, FINRA determined that the firm failed to establish adequate written procedures for the review of incoming and outgoing email correspondence with the public relating to its investment banking or securities business, and failed to maintain evidence that it reviewed incoming and outgoing email correspondence with the public relating to its investment banking or securities business. Moreover, FINRA found that the firm failed to implement a restricted or watch list, and its procedures failed to adequately address the placement of a security on, or removal from, the firm's restricted list or watch list; supervision of inter-departmental communication; restricting access to material nonpublic information; instances where employees are brought "over the wall"; and the conduct of investigations relating to potential insider trading. ([FINRA Case #2009016245301](#))

Centara Capital Securities, Inc. (CRD #130702, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it distributed various pieces of sales literature concerning a private placement fund that violated the content standards set forth in FINRA advertising rules. The findings stated that each of the sales literature communications failed to balance the described benefits of a fund with the specific risks associated with the fund, including the potential loss of capital; limited liquidity, including the lack of a secondary market; the restricted redemption program; lack of initial dividends; and the small and non-diverse nature of the portfolio. The findings also stated that each of the sales literature communications contained various false, exaggerated, unwarranted and/or misleading statements. The findings also included that the PowerPoint presentation and the fund snapshot included statements that constituted impermissible predictions, projections, claims, opinions and/or forecasts of future performance. ([FINRA Case #2011029747201](#))

Dougherty & Company LLC (CRD #7477, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$47,500 and required to revise its WSPs regarding interest rate-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 submit interest rate reset information for variable-rate demand obligations (VRDO) to the MSRB's Short-Term Obligation Rate Transparency (SHORT) system within the time requirements. The findings stated that the firm failed to record correct information on the order memoranda regarding the interest rate reset for the VRDO transactions reported to the SHORT system. The findings also stated that the

firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning interest rate-reporting requirements. The firm failed to submit accurate information regarding the result of an interest rate VRDO reset in numerous instances to the SHORT system within the time requirements, and failed to submit accurate information regarding the interest rate reset time to the SHORT system within the time requirements. The findings also included that the firm failed to document certain information related to submissions made to the SHORT system, failed to submit accurate information regarding the result of an interest rate VRDO reset for a Committee on Uniform Securities Identification Procedures (CUSIP) number to the SHORT system within the time requirements, and failed to submit accurate information regarding the interest rate reset time for the CUSIP number in some instances to the SHORT system within the prescribed time requirements. ([FINRA Case #2010025312801](#))

First Allied Securities, Inc. (CRD #32444, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it did not have adequate written procedures regarding the delivery of exchange-traded fund (ETF) and unit-investment trust (UIT) prospectuses. The findings stated that the firm signed an agreement with a company for delivery of ETF and UIT prospectuses. Although the firm retained the company to deliver its ETF and UIT prospectuses, it remained the firm's responsibility to review transaction activity on a regular basis and verify that a prospectus was properly delivered when required. The findings also stated that to assist the firm in fulfilling its delivery obligations, the company made available daily and monthly exception reports via its online report center. These exception reports listed all prospectuses that were not delivered on a trade date and the reason each prospectus was not delivered. The findings also included that the firm failed to adequately review the exception reports the company provided and failed to otherwise review and monitor the functions it delegated to the company and, as a result, the firm failed to detect that the company failed to deliver numerous prospectuses. Accordingly, the firm failed to deliver the required prospectuses or written descriptions in connection with ETF and UIT purchases. ([FINRA Case #2012033328601](#))

First American Capital and Trading Corporation (CRD #118812, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$42,500, and required to revise its WSPs regarding adequate procedures of supervision and control, including a separate system of follow-up and review, reasonably designed to ensure compliance with Rule 606 of Regulation NMS, Rules 204(a) and (b) of Regulation SHO, and FINRA Rules 7130, 7230A, 7440 and 7450. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit order data for orders to OATS, transmitted duplicative order data for orders to OATS, transmitted order data with incorrect destination codes for two orders and transmitted inaccurate order data for another order. Two confirmation

statements the firm generated failed to disclose that the firm had received payment for order flow, and others omitted a disclosure that the execution price per share on the confirmation statement was an average price, not the actual execution price, and that the actual execution prices were available upon request. The findings stated that on two statements, the firm included a code that incorrectly indicated that the firm had executed orders in an agency capacity when in fact it had executed them in a principal capacity. The findings also stated that the firm failed to disclose material aspects of its relationship with an execution venue in a report to disclose order routing information that the firm had published for a yearly quarter, in that it failed to disclose it had received payment for order flow from that venue. The findings also included that the firm failed to establish and maintain adequate procedures of supervision and control, including a separate system of follow-up and review, reasonably designed to ensure compliance with Rule 606 of Regulation NMS, Rules 204(a) and (b) of Regulation SHO, and FINRA Rules 7130, 7230A, 7440 and 7450. ([FINRA Case #2010021164801](#))

Hallmark Investments, Inc. (CRD #135003, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish a reasonable supervisory system and procedures related to its retention and review of electronic communications. The findings stated that the firm's WSPs did not reflect the firm's intended practice of maintaining emails in hardcopy format. The firm did not establish a system to confirm that all electronic communications were contemporaneously printed for retention. The findings also stated that the firm moved office locations and discovered that some of its business records, namely emails maintained in hardcopy format, were destroyed by water damage. The firm first notified FINRA, in response to a FINRA Rule 8210 request, that the records were destroyed; however the firm did not provide notification to the Securities Exchange Commission (SEC) and FINRA as SEC Rule 17a-11 required. The findings also included that the firm failed to accrue an adverse arbitration award in the amount of \$115,258 and, as a result, conducted a securities business while it was net capital deficient. ([FINRA Case #2010020940701](#))

H.D. Vest Investment Securities, Inc. dba H.D. Vest Investment Services (CRD #13686, Irving, Texas) 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 FINRA sent it numerous electronic Central Registration Depository Website (Web CRD®) letters advising the firm of information that might have required it to amend the Uniform Application for Securities Industry Registration or Transfer (Form U4) for a registered representative, and the firm failed to respond to the letters. The findings stated that with respect to some of those letters, the firm requested information from the registered representative mentioned in the letter, but did not receive a response from the representative, and the firm failed to pursue any of these letters further. The firm did not take any action regarding some of the letters.

The findings also stated that as a result of its failure to respond appropriately to the CRD disclosure letters, the firm failed to learn that some individuals were statutorily disqualified while associated with the firm, but were allowed to register or associate with the firm for protracted periods. One of the individuals, although statutorily disqualified, was permitted under the terms of FINRA Regulatory Notice 09-19 to continue his association with the firm without an application for readmission, provided the firm did not seek to register him as a principal. The findings also included that the firm's failures were a direct outgrowth of inadequate WSPs. The lack of effective supervisory procedures concerning the disclosure queue fostered confusion within the firm regarding who was responsible for monitoring CRD communications, so the firm either failed to follow up on requests for information sent to registered representatives in response to disclosure letters or failed to take any action in response to those disclosure letters. ([FINRA Case #2010024282701](#))

HSBC Securities (USA) Inc. (CRD # 19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$65,000 and required to revise its WSPs regarding FINRA Rules 6182 and 6624, and SEC Rules 200(g) 203(a), 203(b)(1), 203(b)(4), and 204 of Regulation SHO. 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 a threshold security for 13 consecutive settlement days and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity. The firm continued to have a fail-to-deliver position in the security at the registered clearing agency on 79 additional settlement days, which it failed to close out when required. The firm had fail-to-deliver positions at a registered clearing agency in the same security that resulted from a sale of a security that the seller was deemed to own pursuant to §242.200 and intended to deliver once all restrictions on delivery had been removed, and did not close the fail-to-deliver positions by purchasing securities of like kind and quantity within the time frame prescribed. The findings stated that the firm accepted orders in deemed-to-own over-the-counter (OTC) equity securities and failed to properly mark the orders as short; as a result, the firm executed short sale transactions and failed to report each of these transactions to the OTC Reporting Facility with a short sale indicator. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning FINRA Rules 6182 and 6624 (trade reporting of short sales), and SEC Rules 200(g) (order marking), 203(a) (long sales), 203(b)(1) (locate requirement), 203(b)(3) (threshold close out requirement) and 204 (close out requirement). ([FINRA Case #2010021555401](#))

HSBC Securities (USA) Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$250,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its middle office system erroneously left off short sale indicators when communicating with its back office system, which reported the firm's Blue Sheets. The findings stated that as a result, the firm misreported short sale transactions as

long sales on Blue Sheets during a four-year period. The findings also stated that the firm failed to deliver prospectuses or offering memoranda that were required to be delivered in connection with fixed income transactions. The findings also included that the firm experienced a breakdown in its automated feeds, resulting in its failure to append certain investment banking disclosures to its research reports. The firm learned that it had failed to include certain debt offerings in the definition of investment banking that was used to determine the appropriate disclosures for its research reports. As a result of these deficiencies, the firm issued equity research reports without required disclosures. Moreover, due to incorrect mapping of company identifiers, some of the firm's research reports initially failed to contain proper disclosures. FINRA found that despite the firm's policy of disabling text messaging on employee Blackberries, certain non-technology employees had Blackberries with inbound texting functionality. The firm took steps to eliminate this functionality but some registered employees still had Blackberries with texting capability. The firm failed to retain Blackberry text messages received by certain employees. ([FINRA Case #2011027202401](#))

Interactive Brokers LLC (CRD #36418, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$52,500. 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 a threshold security for 13 consecutive settlement days, and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity. The firm continued to have an intermittent fail-to-deliver position in the security at the registered clearing agency on a total of 30 settlement days, which it failed to close out when required. The findings stated that the firm transmitted Reportable Order Events (ROEs) to OATS that OATS rejected for context or syntax errors; the ROEs were repairable, but the firm failed to repair some of them so it failed to transmit them to OATS during the review period. The findings also stated that the firm failed to provide written notification disclosing to its customers the correct yield. The findings also included that the firm failed to report information regarding purchase and sale transactions effected in municipal securities to the RTRS in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about such transactions within 15 minutes of trade time to an RTRS Portal. FINRA found that the firm failed to timely report ROEs to OATS; 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; transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data; and transmitted New Order reports and related subsequent reports to OATS where the timestamp for the related subsequent reports occurred prior to the receipt of the order. ([FINRA Case #2008014195301](#))

ITG Inc. (CRD #29299, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$80,000 and required to revise its WSPs regarding SEC Rules 200(g), 203(a), 203(b)(3) and 204 of Regulation SHO; SEC Rule 10b-21; and other trading rules, namely compliance with trading halts. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in threshold securities for 13 consecutive settlement days and failed to immediately thereafter close out the fail-to deliver positions by purchasing securities of like kind and quantity, or without closing out the fail-to-deliver positions by purchasing securities of like kind and quantity, it failed to borrow the security or enter into a *bona fide* arrangement to borrow the security before executing short sales in the security. The findings stated that the firm failed to show the terms and conditions on brokerage order memoranda and failed to show the correct entry time and/or the correct execution time on brokerage order memoranda. The firm effected transactions in securities while a trading halt was in effect with respect to each of the securities. The findings also stated that the firm executed more than four million short sale transactions in national market system (NMS) securities and failed to report each of the transactions to the FNTRF with a short sale indicator. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing minimum requirements for adequate WSPs in SEC Rules 200(g), 203(a), 203(b)(3) and 204 of Regulation SHO; SEC Rule 10b-21; and other trading rules, namely compliance with trading halts. The firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its WSPs concerning SEC Rule 203(b)(1) of Regulation SHO during certain time periods. ([FINRA Case #2008013222101](#))

KeyBanc Capital Markets Inc. (CRD #566, Cleveland, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$55,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted inaccurate short interest position reports to FINRA on numerous settlement dates. ([FINRA Case #2010023522101](#))

Lebenthal & Co., LLC (CRD #145750, 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 participated in negotiated municipal underwritings as part of a syndicate, but the majority of the Form G-37 reports that the firm filed with the MSRB were incomplete in that the forms were missing required information concerning the issuers with which the firm had engaged in municipal securities business. The findings stated that the firm also failed to implement WSPs designed to identify the political contributions of newly hired Municipal Finance Professionals (MFPs) to political candidates of municipal issuers during the two years prior to the new hire's employment at the firm. ([FINRA Case #2011025765001](#))

Mesirow Financial, Inc. (CRD #2764, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000 and required to revise its WSPs regarding SEC Rules 200(g), 203(a), 203(b)(1), 203(b)(3) and 204T. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in equity securities that resulted from long sales, and did not close the fail-to-deliver positions by purchasing securities of like kind and quantity within the prescribed time frame. The firm had fail-to-deliver positions at a registered clearing agency in an equity security that were attributable to market-making activities, and did not close the fail-to-deliver positions by purchasing securities of like kind and quantity within the prescribed time frame. The findings stated that in instances involving two equity securities, the firm accepted short sale orders from another person, or effected short sales for its own account, without first borrowing the security, or entering into a *bona fide* arrangement to borrow the security, and had a fail-to-deliver position at a registered clearing agency in such security that had not been closed out in accordance with the requirements of paragraphs (a) and (b) of SEC Rule 204T. The findings also stated that the firm knew or had reasonable grounds to believe that the sale of an equity security was or would be effected pursuant to an order marked long, and failed to deliver the security on the date delivery was due. The findings also included 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 sales. The firm's WSPs failed to provide for minimum requirements for adequate WSPs concerning SEC Rules 200(g), 203(a), 203(b)(1), 203(b)(3) and 204T. ([FINRA Case #2009018893101](#))

M. Ramsey King Securities, Inc. (CRD #29318, Burr Ridge, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to verify the identities of all of its investment adviser customers. The findings stated that the firm did not obtain documents showing the existence of each entity nor did it verify the identities of these customers through non-documentary methods. The findings also stated that the firm failed to establish an adequate customer identification program in that its procedures did not address the firm's obligations to verify the identities of its investment adviser customers and how it would perform that verification. The findings also included that the firm failed to identify and conduct due diligence for each of its correspondent accounts for foreign financial institutions. Specifically, the firm failed to maintain documentation to evidence that it determined whether each correspondent account was subject to enhanced due diligence, assessed the money-laundering risk each correspondent account presented, and applied risk-based procedures and controls to each correspondent account to detect and report known or suspected money-laundering activity. As such, the firm failed to comply with the requirements of the Department of Treasury. FINRA found that the firm failed to ensure adequate testing of its AML compliance program for three years. The firm did not conduct

any testing to ensure that the identities of the firm's adviser customers were verified. Additionally, the firm's independent test summaries for these years did not evidence a review to determine whether any firm customers were excluded from the definition of customer contained in the Bank Secrecy Act. ([FINRA Case #2010021009401](#))

National Securities Corporation (CRD #7569, Seattle, Washington) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$18,000 and ordered to pay \$8,964.55, plus interest, in restitution. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold or bought corporate bonds to or from customers, and failed to sell or buy such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. ([FINRA Case #2009020773001](#))

Newbridge Securities Corporation (CRD #104065, Ft. Lauderdale, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000 and required to revise its WSPs to address the requirements of an imposed undertaking, relating to its handling fee on equity security trades, and provide related training to all associated persons. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it charged its customers a fee for handling, in addition to a commission, on equity security trades, and its characterization of the charge as being for handling was improper. The findings stated that the firm's handling fee varied in amount from trade to trade, and the particular dollar amount charged was not attributable to any specific cost or expense the firm incurred in executing the trade, or determined by any formula applicable to all customers. The findings also stated that rather, it was determined by the individual representative executing the order, who had discretion to set the dollar amount of the fee within a particular range the firm set. The range the firm authorized varied from branch to branch; consequently, customers of different branches might be assessed substantially different amounts for handling on otherwise identical trades. The findings also included that although reflected on customer trade confirmations as a charge for handling, a portion of the fee actually served as a source of additional transaction-based remuneration or revenue to the firm, in the same manner as a commission, and was not directly related to any specific handling services the firm performed, or handling-related expenses the firm incurred, in processing the transaction. By designating the charge as a handling fee on customer trade confirmations, the firm understated the amount of the total commissions it charged and misstated the purpose of the handling fee. ([FINRA Case #2012032048401](#))

Oppenheimer & Co. Inc. (CRD #249, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its customer confirmations were inaccurate or incomplete, in that the firm failed to disclose the correct type of remuneration and failed to disclose that the

price the customer received was an average price, failed to disclose the correct type of remuneration on customer confirmations, and failed, on one occasion, to disclose the correct type of remuneration and failed to disclose the correct capacity in which it acted. The findings stated that the firm transmitted reports to OATS that contained incorrect customer instruction flags or incorrect route reports. The findings also stated that the firm transmitted reports to the FNTRF that contained inaccurate data. ([FINRA Case #2010021596901](#))

Portfolio Resources Group, Inc. (CRD #31155, Miami, Florida) 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 began to offer a hybrid-type of billing arrangement to its customers with non-discretionary accounts (the agreement). In lieu of charging standard commissions on equity transactions, the firm charged an annual fee, billed quarterly based on the size of the account; a fixed ticket charge; and a postage and handling fee. The agreement did not address the imposition of ticket charges on fixed income transactions but did provide that customers would not be subject to any additional trading charges. The findings stated that for more than five years, on transactions in customer accounts subject to the agreement, the firm overcharged \$4,672.51 in commissions and other fees on equity trades, bond trades, option real estate investment trust (REIT)/UIT trades and mutual fund trades. The overcharges ranged from a low of \$1.61 to a high of \$550.50. The findings also stated that after FINRA advised the firm of the overcharges, it refunded the overcharges to the affected customers. The findings also included that the firm failed to establish and maintain a supervisory system, including written procedures, reasonably designed to ensure that its accounts subject to the agreement were not charged commissions and other fees on transactions in excess of contractually-agreed amounts. FINRA found that the agreement, which the firm provided to customers, contained false and misleading language because the firm charged markups/markdowns on fixed income transactions in customer accounts subject to the agreement. With the exception of the fixed income trades, the firm did not impose ticket charges on fixed income transactions subject to the agreement. Because the agreement did not disclose that markups/markdowns would be charged on fixed income transactions, the agreement did not provide a sound basis for evaluating the costs associated with it. ([FINRA Case #2011025680301](#))

Roth Capital Partners, LLC (CRD #15407, Newport Beach, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to file advance notice of its intent to conduct a syndicate-covering transaction. The findings stated that, while acting as the managing underwriter in a public offering, Roth Capital failed to file advance notice of its intent to conduct a syndicate covering transaction. The firm failed to make the required filing even though it anticipated that the syndicate-covering transaction could have an impact on the price of the offered security. After it had already covered its short position, the firm

incorrectly reported to FINRA that it had exercised its over-allotment option and covered its short position by purchasing the shares from the issuer. The firm failed to inform FINRA that it had also covered a portion of its short position by purchasing shares in the market. The findings also stated that the firm failed to establish and maintain a supervisory system or procedures reasonably designed to ensure compliance with Rule 104 of Regulation M of the Securities Exchange Act of 1934, and failed to indicate who was responsible for ensuring compliance with Rule 104 of Regulation M or designate a principal to supervise that activity. ([FINRA Case #2009019067702](#))

Scottrade, Inc. (CRD #8206, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report reportable options positions in standard options to the Securities Industry Automation Corporation (SIAC) Large Option Positions Reports (LOPR), and failed to report at least one reportable option position in standard options to the Options Clearing Corporation (OCC) LOPR. The firm failed to report numerous reportable positions in standard options to the SIAC and OCC for accounts under common control or acting-in-concert. The findings stated that the firm failed to report approximately 8,000 options positions to the LOPR over an approximate six-month period. The firm failed to report the appropriate in-concert information for numerous customer accounts to the SIAC and LOPR, and failed to report approximately 9,300 options positions to the LOPR with the correct in-concert information for over 18 months. The firm failed to report numerous reportable options positions in standard options to the SIAC and OCC as a result of the firm incorrectly netting options positions and coding errors in the firm's internal reporting systems. The findings also stated that the firm failed to report approximately 1,100 options positions to the LOPR for approximately 18 months. The firm failed to accurately report numerous reportable options positions in standard options to the SIAC and the OCC with the correct effective date. The firm failed to accurately report approximately 789 options positions to the LOPR with the correct effective date. The findings also included that for approximately three years, the firm failed to have an adequate system to supervise reporting of options positions for accounts under common control or acting in-concert. For more than five years, the firm failed to have an adequate supervisory system to review the accuracy of its daily LOPR submissions. ([FINRA Case #2009019913601](#))

StockCross Financial Services, Inc. (CRD #6670, Beverly Hills, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it filed a Financial and Operational Combined Uniform Single (FOCUS) Report with the SEC and FINRA. The findings stated that Part II of the FOCUS Report contained the firm's computation of its monthly net capital and stated that it had net capital of \$16,173,033. As a market maker, the firm was subject to a \$1 million net capital requirement. The firm calculated its excess net capital to be \$15,173,033. The findings also stated that FINRA's Department of Risk Oversight and Operational Regulation

(ROOR) conducted a financial/operational and sales practice examination of the firm and reviewed the firm's compliance with the net capital rule and related rules. ROOR issued its examination report, noting the firm's noncompliance with Securities and Exchange Act of 1934 (Exchange Act) Rule 15c3-1. The firm held approximately \$85 million in certificates of deposits (CDs) at 12 banks. The firm failed to take a required concentration deduction on the aggregate value of CD positions it held at nine banks that exceeded 30 percent of the firm's tentative net capital of \$5,811,390. The firm should have deducted \$19,872,425 from its net capital, but did not, so the firm had a net capital deficiency of \$4,699,392, rather than excess net capital as it had reported in its FOCUS Report. The findings also included that the firm failed to take deductions against net capital for its CD positions that exceeded 30 percent of its tentative net capital for four months, which resulted in net capital deficiencies during these months. The firm filed inaccurate FOCUS Reports for these months because the reports did not reflect the net capital deficiencies that resulted from the failure to take the required deductions. FINRA found that on the same date that FINRA issued its examination report, the firm notified the SEC and FINRA of the deficiency in its net capital, as required, and that it had operated a securities business during that period. Simultaneously, the firm filed an amended FOCUS Report, taking the appropriate charge against its bank CD positions, and also filed another FOCUS Report with the corrected net capital computation. In its notification to the SEC, the firm stated that it may not have been in capital compliance prior and subsequent to the review for FINRA's examination. ([FINRA Case #2011027611101](#))

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that failed to include a special handling code or failed to include the cancel quantity of an order that was partially executed. The findings stated that the firm failed to transmit ROEs to OATS. The findings also stated that the firm failed to adjust the price of stop market orders. ([FINRA Case #2011026166701](#))

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$90,000 and required to revise its WSPs addressing trading and market-making topics. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that when it acted as principal for its own account, it failed to provide written notification disclosing to its customers that it was a market maker in each such security or its correct capacity in the transaction. The findings stated that the firm transmitted reports to OATS that contained inaccurate "Not-Held" and "Directed" special handling codes. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with SEC Rule 611(a)(1) of Regulation NMS, including its use of Rule 611(b) exceptions, compliance with the self-help exception, documentation of the "externally observable circumstances" upon which the price is based for intraday

benchmark Volume Weighted Average Price (VWAP) trades with an over/under provision, and documentation that the fee-pass meets the requirements the SEC set for American Depositary Receipts (ADR) conversions that include a conversion fee that is passed through to the customer. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with certain applicable securities laws, regulations and/or FINRA and SEC rules addressing trading and market-making topics. The firm's WSPs failed to provide for minimal requirements in designation of principals in each OSJ, order handling, trade reporting, trading halts, NASDAQ prevention of order entry/clearly erroneous, NASDAQ order identification, information barriers, books and records, ATS trade reporting, and rules applicable to ATSS and ECNs (electronic communication networks).

FINRA found that the firm failed to provide documentary evidence that on the trade dates reviewed, it performed the supervisory reviews set forth in its WSPs concerning order handling trade reporting, anti-intimidation or coordination, firm quote, multiple MPIDs, Form ATS-R filing, soft dollar records, and MPID usage and requirements. FINRA also found that the firm failed to provide written notification to its customers indicating its correct capacity in transactions. In addition, FINRA determined that the firm accepted orders from customers for execution in the pre-market session or post-market session without disclosing to such customers that extended-hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk. Moreover, FINRA found that for one month, the firm made available a report on the covered orders in national market system equities it received for execution from any person. This report contained incorrect information as total covered orders, total covered shares, canceled shares, away executed shares, shares from five to 30 minutes, average realized spread, average effective spread, price-improved shares, price-improved average amount, price-improved average time, outside-the-quote shares, outside-the-quote average amount, outside-the-quote average time, and canceled shares. The report also excluded an order that should have been covered. ([FINRA Case #2009017016601](#))

Waddell & Reed, Inc. (CRD #866, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to deliver numerous purchase confirmations for mutual-fund asset-allocation products (MAP) accounts, and those confirmations would have confirmed multiple mutual-fund share purchases that occurred in numerous investment-advisory clients' accounts. The findings stated that although the failure to deliver purchase confirmations resulted from the actions of a third-party service provider, the firm remained responsible at all times for compliance with its obligations under all applicable securities laws and regulations. The findings also stated that until a certain date, all purchase transactions in MAP accounts resulted in the delivery of contemporaneous trade confirmations. On that date, however, the third-party service provider made a coding

change to the software system it provided to the firm's subsidiary and other entities. The third-party did not intend for the coding change to affect the MAP accounts in any way, and neither the subsidiary nor the firm requested the change. Nonetheless, one effect of the coding change was to prevent customers from receiving confirmations when cash in a MAP account was allocated to individual mutual funds. FINRA found that a MAP-account customer contacted a firm representative to ask why the firm was no longer issuing fund-allocation confirmations. The representative contacted the subsidiary, but did not alert the firm's compliance department of the situation. The subsidiary conducted an internal review and determined that the subsidiary's coding change had created the problem but did not apprise the firm's compliance department of the situation at that time. The third-party provider began researching the issue and working on a solution. The initial work did not completely solve the problem and it implemented a second fix that, through subsequent testing, verified that the problem was fully resolved. ([FINRA Case #2011029075101](#))

Individuals Barred or Suspended

Bill Alvin Ahlswede (CRD #4477845, Associated Person, Menifee, 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 Ahlswede'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, Ahlswede consented to the described sanctions and to the entry of findings that he filed a materially false, misleading and inaccurate Form U4 when he signed and filed an initial Form U4 with a FINRA member firm that did not disclose that the National Futures Association (NFA) had charged him, via a written complaint, with violating several NFA rules, and the NFA complaint was a material event requiring disclosure. The findings stated that Ahlswede also failed to amend his Form U4 when the NFA issued a decision in the matter a few weeks later, reflecting his Offer of Settlement, in which he agreed to a two-year bar from NFA membership and a \$5,000 fine payable upon reentry.

The suspension is in effect from February 4, 2013, through August 3, 2013. ([FINRA Case #2011027351901](#))

Johan Mary-Lyn Akal (CRD #4050242, Registered Representative, Sarasota, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Akal forged a bank customer's signature on cash withdrawal slips and effected cash withdrawals from the customer's account totaling \$47,186.58 without the permission or authority from the customer or the bank, thereby misappropriating the funds. The bank later reimbursed the customer in full. The findings stated that Akal failed to respond to FINRA requests for information and testimony. ([FINRA Case #2011030662501](#))

David Appel (CRD #1026798, Registered Representative, Brooklyn, 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, Appel consented to the described sanction and to the entry of findings that he failed to completely respond to FINRA requests for information and documents in connection with inquiries concerning sales of promissory notes. ([FINRA Case #2009020303101](#))

James Arthur Avery Jr. (CRD #1101660, Registered Representative, Richmond, 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, Avery consented to the described sanction and to the entry of findings that he failed to amend his Form U4 to disclose an unsatisfied lien. The findings stated that Avery refused to provide FINRA-requested testimony in connection with its investigation regarding his possible failure to disclose unsatisfied judgments and liens. ([FINRA Case #2012032279701](#))

Michael Jon Binstock (CRD #2728462, Registered Representative, Victoria, Minnesota) was fined \$30,000 and suspended from association with any FINRA member in any capacity for four months. The fine is due and payable when Binstock returns to the industry. The sanctions were based on findings that Binstock falsified account documents in customers' accounts by copying customers' signatures from existing documents and pasting the signatures on new forms, without the customers' authorization. The findings stated that Binstock retained in his files a signed but incomplete or blank customer transfer-on-death form. The findings also stated that these misleading documents were maintained in Binstock's member firm's files, causing the firm to retain inaccurate books and records. The findings also included that Binstock settled a customer complaint by depositing \$515.76 into the customers' checking account without his former firm's knowledge or approval. Although Binstock was no longer with the firm at the time he paid the customers, he was still obligated to notify the firm.

The suspension is in effect from January 7, 2013, through May 7, 2013. ([FINRA Case #2009018377601](#))

Robert Keith Brooks aka Robert Keith Stuart (CRD #1571789, Registered Principal, Miami, Florida) 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 two months. Without admitting or denying the findings, Brooks consented to the described sanctions and to the entry of findings that he commingled his personal funds with investors' funds for an oil-and-gas offering he solicited through a private placement memorandum. Brooks ultimately raised \$87,633.50, which he deposited into a bank account designated as an operating account for the oil-and-gas project. Brooks used the account to pay expenses related to the oil-and-gas project. During the same time period, Brooks deposited \$8,912.50 of his personal funds into the bank account where the investors' funds were deposited, thus commingling the funds.

The suspension is in effect from February 4, 2013, through April 3, 2013. ([FINRA Case #2011030168001](#))

Andrew Dominic Carava (CRD #4293048, Registered Principal, Homewood, Illinois) submitted an Offer of Settlement in which he was fined \$7,500, suspended from association with any FINRA member in any principal capacity for two years, concurrently suspended from association with any FINRA member in any capacity for 30 days, and required to requalify by examination as a principal before acting again in a principal capacity. Without admitting or denying the allegations, Carava consented to the described sanctions and to the entry of findings that his member firm's CCO gave a FINRA request for information letter to Carava related to a customer's complaint, and asked him to assemble the firm's response to FINRA. The findings stated that Carava created several separate letters, purporting to show that information had been requested of the firm's registered representatives who handled the customer's account, regarding the customer's complaint. In fact, these letters were never sent to the representatives and were fabricated by Carava. Carava also created a second set of fictitious letters that were backdated and done to show that he had not received a response from the representatives to his first written request; they were never sent either. Carava represented in a letter to FINRA that he attempted to communicate with the representatives, attached the fictitious letters, and represented that he had sent the letters to the representatives. The findings also stated that Carava wrote notes on the letters, made copies of the letters, placed them in his firm's customer complaint files and destroyed the original fictitious letters. The findings also included that the SEC began an investigation of the representatives and requested that the firm provide documentation relating to its receipt and investigation of the customer's complaint. In response to the SEC's requests, the firm accessed its customer complaint files, retrieved the fictitious letters Carava created and provided them to the SEC; therefore, Carava caused the firm's books and records to be inaccurate.

The suspension in any principal capacity is in effect from February 19, 2013, through February 18, 2015. The suspension in any capacity is in effect from February 19, 2013, through March 20, 2013. ([FINRA Case #2010021822701](#))

Fernando Castaneda-Corral (CRD #5231279, Registered Principal, El Paso, 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, Castaneda-Corral consented to the described sanction and to the entry of findings that he made unauthorized trades in a customer's brokerage account, and provided the customer with false account statements that concealed those unauthorized trades and artificially inflated the account balance. The findings stated that Castaneda-Corral also provided the same customer with a written guarantee that promised a 7 percent to 7.5 percent return on the customer's investments in his brokerage account. ([FINRA Case #2012032392601](#))

Tiffany Lea Chamberlain (CRD #4204733, Registered Principal, Hollywood, Florida) submitted an Offer of Settlement in which she was fined \$7,500 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Chamberlain'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 allegations, Chamberlain consented to the described sanctions and to the entry of findings that an affiliate bank of her member firm issued her a credit card to be used for legitimate business of the affiliate only, and was not to be used for personal charges under any circumstances. The findings stated that Chamberlain, on separate occasions, attested that she had read the affiliate's Code of Conduct, which stated that proper use of corporate assets is her responsibility and must not be used for personal use, and completed the affiliate's business ethics training, which required reviewing the Code of Conduct. The findings also stated that Chamberlain knew that the affiliate's policy prohibited her from using her corporate-issued credit card for personal expenses. Nonetheless she repeatedly used the credit card to make cash withdrawals from automated teller machines (ATM) and improperly used the proceeds to pay for her personal expenses. Chamberlain used her corporate-issued credit card numerous times to improperly withdraw approximately \$40,342 in cash to pay for personal expenses, in violation of the affiliate's policies, notwithstanding the fact that she typically paid her credit card bill in full on or near the due date. Chamberlain improperly paid for personal expenses using the proceeds of the cash withdrawals made with her corporate credit card. The findings also included that Chamberlain never obtained permission from her firm or its affiliate to use the affiliate's funds to pay for personal expenses. Chamberlain used the withdrawn funds in a manner she was not authorized or entitled to use them, and knowingly violated the affiliate's policies she had accepted and acknowledged as part of her association and as a condition of being issued the credit card.

The suspension is in effect from January 22, 2013, through July 21, 2013. ([FINRA Case #2011026351101](#))

Ronald Eugene Cleveland (CRD #2924946, Registered Representative, Stone Mountain, Georgia) 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 Cleveland'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, Cleveland consented to the described sanctions and to the entry of findings that he sold equity-indexed annuities (EIAs), which were not securities, totaling approximately \$4,991,272 to individuals, some of whom had accounts at Cleveland's member firm, and received commissions totaling approximately \$403,737, without providing prior written notice of these sales to his firm. The findings stated that Cleveland filed outside business activity questionnaires at the firm that omitted these sales

despite firm policies and procedures that required the disclosure of all outside business activities and receipt of compensation from other entities.

The suspension is in effect from January 7, 2013, through July 6, 2013. ([FINRA Case #2010025838101](#))

William Howard Coons (CRD #2049465, Registered Supervisor, West Hartford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Coons consented to the described sanctions and to the entry of findings that he negligently omitted material facts and made material misstatements in connection with his sale of approximately \$2 million in promissory notes issued by his member firm's parent company. The findings stated that Coons did not adequately understand the present financial condition of the issuer, or its ability to make payments on the notes, when he sold the notes. Coons was not provided with a private placement memorandum or financial statements of the issuer prior to selling the notes. Coons was provided with financial statements of the issuer's two broker-dealer subsidiaries, but these results omitted the substantial debt and other expenses that caused the consolidated entity to operate at a loss. The findings also stated that Coons conducted his own due diligence on the issuer's business plan and future prospects, and spoke to the heads of the issuer's existing and anticipated new business lines, but relied on statements by his firm's president and CEO to develop his understanding of the issuer's financial results. As a result, Coons failed to adequately understand or disclose the issuer's actual financial condition to his customers when he sold them the notes. The findings also included that while Coons was selling the notes, the issuer defaulted on the notes that it had issued to retail investors and had also missed interest payments owed to at least some note holders, and had, for several years, failed to make interest payments to retail investors who had purchased the company's preferred stock. Coons did not understand these facts and did not disclose them to his customers.

FINRA found that in some instances, Coons negligently misstated the issuer's financial condition. Coons told certain customers that the issuer was breaking even and that the company's cash flow could service both its current and existing debt. Coons did not have a reasonable basis for making these statements. In fact, the issuer was losing money and was unable to service its existing debt. FINRA also found that in some instances, Coons provided customers with historical financial statements of the issuer's broker-dealer subsidiaries that did not include the separate results of the issuer, so the financial statements Coons provided to certain customers were materially misleading. In addition, FINRA determined that although Coons did tell potential investors that they could lose their entire investment, he minimized the likelihood of this happening, and failed to disclose facts indicating the likelihood of a default on the notes he was selling. Moreover, FINRA found that after the issuer defaulted on the notes, those investors who agreed to sign releases and invest

additional funds in a related enterprise were returned the principal and interest they invested. To date, other investors who purchased the note from other brokers have not received the return of their principal and interest.

The suspension is in effect from February 19, 2013, through March 18, 2013. ([FINRA Case #2011026346205](#))

Thomas Baxter Cordingly (CRD #1166058, Registered Principal, Alto, Michigan) 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 10 business days. Without admitting or denying the findings, Cordingly consented to the described sanctions and to the entry of findings that he recommended numerous inverse floater collateralized mortgage obligations (Inverse Floater CMOs) transactions to some of his customers without having a reasonable understanding of the nature, risks and rewards of each transaction he recommended. The findings stated that Cordingly lacked a reasonable basis to recommend the purchase and sale of Inverse Floater CMOs to his customers, and failed to perform a reasonable investigation or appropriate due diligence of each Inverse Floater CMO he recommended. Cordingly also failed to investigate each Inverse Floater CMO he recommended with respect to several key risk factors, including, but not limited to, the Inverse Floater CMO's mortgage pool, its structure and its expected average life. The total amount of revenue Cordingly earned in connection with these Inverse Floater CMO transactions was approximately \$59,000. The findings also stated that Cordingly did not have any prior experience selling Inverse Floater CMOs to retail customers, and had not received any training that provided him with specific, objective criteria or guidelines to use in conducting an analysis of each Inverse Floater CMO prior to making a purchase or sale recommendation.

The suspension was in effect from February 4, 2013, through February 15, 2013. ([FINRA Case #2011025852101](#))

Steven Joseph Corzan (CRD #4426114, Registered Representative, Aliso Viejo, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Corzan consented to the described sanction and to the entry of findings that he engaged in private securities transactions that his member firm had not approved and were not available for sale through the firm. The findings stated that Corzan never disclosed his agreement with a company's marketing subsidiary to his firm, did not give his firm notice of his intention to participate in the sale of the contracts or notes, and did not obtain his firm's written approval to engage in these transactions. Corzan told potential investors that the company owned a private pool of income-producing real estate and that an investor who purchased the notes would receive a guaranteed annual return of either 9 percent (for notes that were reportedly reinsured by a third party) or 12 percent (for notes that were not reinsured). The findings also included that the SEC filed a lawsuit against the company. The U.S.

District Court's Receiver reported that the company had raised about \$222.6 million, but it was a Ponzi scheme in which distributions to existing investors were made with funds from new investors. FINRA found that Corzan's firm first received written notice that Corzan had participated in the sale of the investment product when it was served with a statement of claim naming the firm as a respondent in an arbitration initiated by a customer who had purchased a note from Corzan. The firm and its parent company have been named as respondents and defendants in actions filed by all of the investors who purchased the notes from Corzan. ([FINRA Case #2009018768501](#))

Michael Jason Cox (CRD #4703349, Registered Representative, Knoxville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cox consented to the described sanction and to the entry of findings that he misappropriated more than \$11,700 from his mother-in-law's bank account. The findings stated that Cox advised and assisted his mother-in-law with her banking and investment accounts. Through that relationship, Cox obtained a debit card associated with her bank account without her knowledge or consent. Cox then used the card to withdraw funds and make financial transactions for his personal benefit, all without his mother-in-law's knowledge or authorization. The findings also stated that on multiple occasions, Cox used the card to obtain cash advances from ATMs totaling \$7,900, plus fees. Cox also used the card without authorization to pay wireless telephone and utilities bills and make retail purchases for his benefit. ([FINRA Case #2012032213801](#))

Joseph Kenneth Critelli (CRD #2707711, Registered Representative, Northport, 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, Critelli consented to the described sanction and to the entry of findings that in the course of an investigation, FINRA sought on-the-record testimony from Critelli concerning his personal trading activities and recommendations that he made to clients to purchase certain securities while he was registered with his member firm. The findings stated that before the scheduled interview, Critelli told FINRA that he would not appear to testify at the on-the-record interview or at any other scheduled interview. The findings also stated that while registered at his firm, Critelli opened a personal securities account at another member firm and bought and sold securities in that account. Critelli never notified that firm that he was registered with his member firm and also failed to notify his firm that he had opened an account at another firm. ([FINRA Case #2012033227401](#))

Michael John Dubek (CRD #1789755, Registered Representative, Murray, Utah) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Dubek'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, Dubek consented to the described sanctions and to the entry of findings that he recommended to some customers various illiquid, private-placement investments in amounts representing greater than 15 percent of each respective customer's total net worth. The findings stated that this concentration in illiquid, high-risk investments exposed the customers to a risk of loss that was inconsistent with their investment objectives and financial needs, in particular their need to protect retirement savings in order to fund retirement living expenses.

The suspension was in effect from January 22, 2013, through February 21, 2013. ([FINRA Case #2011028380101](#))

Gary William Elsmore (CRD #1212378, Registered Principal, Broadview Heights, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any principal capacity. In light of Elsmore's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Elsmore consented to the described sanction and to the entry of findings that he was the principal of his member firm responsible for supervising, monitoring and ensuring that the firm complied with all applicable rules and regulations. The findings stated that an individual became associated with the firm as an owner of the firm. The individual did not file a Form U4 to become registered with the firm, did not take any securities examinations and was not registered with FINRA in any capacity, but engaged in the solicitation of securities business and in securities transactions. Elsmore was aware of the individual's conduct and allowed him to engage in these activities without being registered as a securities representative. The individual also engaged in managing certain financial affairs and securities business of the firm that required registration as a general securities principal. Elsmore learned of the individual's involvement in the firm's financial affairs and allowed him to continue to engage in managing the firm's financial affairs and securities business without being registered as a securities principal. The findings also stated that Elsmore permitted the initial sales of an offering, while failing to prepare an offering document prior to the initial sales. Elsmore failed to file the offerings documents with FINRA, and failed to provide offering documents to investors prior to their purchase of membership interests in the offerings. The findings also included that Elsmore caused his firm to fail to file a Form D, a notice of sales, with the SEC within 15 days after the firm began selling its offering.

FINRA found that the ownership of the firm changed and Elsmore failed to file an application for approval of the change in ownership with FINRA at least 30 days before the firm was acquired. FINRA also found that prior to his resignation, Elsmore willfully failed to amend his firm's Uniform Application for Broker-Dealer Registration (Form BD) to disclose that some customers became owners of the firm and that an entity became the firm's sole owner on a certain date. In addition, FINRA determined that Elsmore failed to establish, maintain and enforce adequate supervisory systems of the firm, and WSPs related to the sales of unregistered private securities offerings. Elsmore also failed to

follow the firm's WSPs to ensure compliance with FINRA By-Laws and Rules when he failed to file the required amendments to the firm's Form BD within 30 days after learning of facts giving rise to the amendments. Moreover, FINRA found that Elsmore failed to create, maintain, and preserve his firm's financial books and records in an easily accessible place. FINRA requested that the firm provide its general ledger, trial balances and net capital computations for two months, and the firm was unable to provide these documents because Elsmore failed to promptly forward these documents and records to the firm's owner. The requested documentation has never been provided to FINRA. Furthermore, FINRA found that Elsmore caused his firm to fail to timely file an annual audited financial report. ([FINRA Case #2010021352601](#))

Paul Elvidge Jr. (CRD #1852650, Registered Principal, Port St. Lucie, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity and ordered to pay \$620,177.90, plus interest, in restitution to customers. Without admitting or denying the findings, Elvidge consented to the described sanctions and to the entry of findings that he wrongfully and without authorization converted funds for his own use and benefit from his member firm's customer brokerage accounts by submitting wire transfer requests totaling \$690,152.90 to the firm, ostensibly on the customers' behalf, but the funds were wired into the operating account for Elvidge's office. The findings stated that Elvidge admitted that he forged the customers' signatures on the wire transfer requests, and none of the customers were aware of or authorized the transfers. Once the funds were in Elvidge's operating account, the majority were transferred to a futures trading account Elvidge owned and controlled, where the funds were lost due to trading activity. The findings also stated that Elvidge repaid one customer. ([FINRA Case #2012034412101](#))

Neil Arne Evertsen (CRD #2536540, Registered Representative, Mt. Vernon, 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 10 months. In light of Evertsen's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Evertsen consented to the described sanction and to the entry of findings that he negligently omitted material facts in connection with the sale of highly speculative two-year promissory notes the parent company of his member firm issued. The findings stated that Evertsen made unsuitable recommendations of the issuer's note to customers, and sold the note to unaccredited investors even though he had been told it was inappropriate for him to do so. Evertsen sold \$690,000 in promissory notes to retail customers, even though he did not have an understanding of the issuer's actual financial condition. Instead of conducting his own due diligence, Evertsen unreasonably relied on oral statements about the company's future prospects and the operations of its subsidiaries the president and CEO of his firm and the issuer provided to him. Evertsen also unreasonably relied on due diligence another broker conducted. The findings also stated that unbeknownst to Evertsen, the issuer had incurred substantial losses and was unable to pay its existing debts during the period when he was selling the notes. As a result of Evertsen's deficient

due diligence, he failed to understand or disclose the issuer's actual financial condition to his customers. Prior to selling the notes, Evertsen did not review any financial statements of the issuer or its subsidiaries, did not understand the issuer's assets or liabilities, and did not have any understanding of the extent of the issuer's debt. The findings also included that when Evertsen spoke to investors about the note, he did not disclose any financial information about the issuer. He also failed to disclose that he had not reviewed the issuer's financial statements and that he did not himself understand the issuer's financial condition. While Evertsen told potential investors that they could lose their investment if the issuer went out of business, he did not understand or disclose any facts indicating whether this was likely to happen. Evertsen failed to provide his customers with adequate written disclosures about the investment. Evertsen provided customers with historical financial statements of the issuer's broker-dealer subsidiaries, which did not include the separate results of the issuer, so the customers were provided a misleading picture of the issuer's overall financial condition.

FINRA found that the promissory notes Evertsen sold were suitable for only the most aggressive and speculative investors and, in spite of this, Evertsen recommended the note to certain customers who were not accredited, did not possess aggressive risk tolerances and/or were not seeking to speculate. In addition, the broker with whom Evertsen shared a book of business warned Evertsen that it would be inappropriate to sell the issuer's notes to unaccredited investors. In spite of this warning, Evertsen recommended the note to unaccredited investors and sold the note to investors he knew were unaccredited without a registration statement or an exemption from registration in place. FINRA also found that Evertsen was directed by others to obtain his customers' signatures on updated account forms that stated that the customers possessed aggressive risk tolerances and speculative investment objectives. Evertsen obtained these updated forms even though he knew that, in some instances, the customer's risk tolerances and investment objectives had not changed. As a result of Evertsen's phone calls, customers agreed to update their new account forms to indicate that they had aggressive risk tolerances and investment objectives of speculation even though he knew that some of the updated customer account forms were inaccurate, and Evertsen did not have a reasonable basis for believing that a number of other customers had changed their risk tolerances or investment objectives. As a result of Evertsen's actions, his member firm created and maintained customer account forms that did not reflect the actual risk tolerances and investment objectives of the firm's customers, causing his firm to maintain inaccurate records.

The suspension is in effect from February 4, 2013, through December 3, 2013. ([FINRA Case #2011026346204](#))

Eileen Jean Fern (CRD #1068655, Registered Representative, Parma Heights, Ohio) 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, Fern consented to the described sanction and to the entry of findings that she

served as a trustee of a living trust for a public customer who also maintained a securities account with her member firm that she serviced and caused \$15,764 to be withdrawn from the customer's fixed annuities without the customer's knowledge or consent, as compensation for acting as trustee for the living trust. The findings stated that these withdrawals were \$10,986 more than Fern was entitled to receive in fees pursuant to the trust agreement. Fern directed the \$10,986 to a bank account she controlled, then converted the \$10,986 for her personal use or for some purpose other than the benefit of the customer or the customer's living trust. The findings also stated that Fern became aware that the customer was questioning the trustee fees Fern had paid herself. In order to reimburse the customer, Fern borrowed \$35,000 from a different firm customer whose securities account Fern serviced, and paid approximately \$31,764 to the customer's living trust, so it was more than reimbursed for the excess fees Fern had charged the trust. The findings also included that this borrowing of funds from a customer was done against the firm's WSPs because Fern did not notify the firm of the borrowing arrangement with the customer and borrowed the \$35,000 from the other customer without obtaining the firm's written pre-approval. Fern did not discuss the borrowing arrangement with her firm until it confronted her about it. ([FINRA Case #2012031533801](#))

Joseph Lindsay Fuller (CRD #215629, Registered Representative, Moorestown, 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 one month. The fine must be paid either immediately upon Fuller'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, Fuller consented to the described sanctions and to the entry of findings that he engaged in undisclosed outside business activities and failed to give his member firm prior written notice of the activities and the undisclosed compensation, which were both outside the scope of his relationship with his firm. The findings stated that Fuller performed 401(k) consulting services for a limited liability company and earned undisclosed compensation of at least \$11,889.

The suspension was in effect from February 4, 2013, through March 3, 2013. ([FINRA Case #2012031108201](#))

Daniel James Gallagher (CRD #2092711, Registered Representative, Port Washington, New York) was 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 sanction was based on findings that Gallagher acted as an unregistered principal, refused to respond to questions during on-the-record testimony, willfully failed to amend his Form U4 to disclose an SEC complaint and judgment, circumvented heightened supervision requirements, and failed to adopt a supervisory control system and conduct an annual certification of the supervisory control system. ([FINRA Case #2008011701203](#))

Joshua Adam Garber (CRD #4893622, Registered Representative, Washington Township, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Garber consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request for documents and information concerning an ongoing investigation. ([FINRA Case #2011028461601](#))

Brendan Drew Gery (CRD #5396209, Registered Representative, Allentown, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Gery'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, Gery consented to the described sanctions and to the entry of findings that he falsified a customer's signature on life insurance policy forms and submitted those documents to the insurance company. The findings stated that after the policy was issued, Gery needed the customer to sign delivery receipts. The customer's wife worked at the same bank branch as Gery. Instead of having the customer sign the receipts, Gery asked a co-worker, in the wife's presence, to sign the customer's name on the forms and submitted them to the insurance company. The findings also stated that later that month, the insurance company questioned the authenticity of the customer's signature and asked Gery to have the customer sign a new delivery receipt. Instead of following those instructions, Gery signed the customer's name on the form and submitted it to the insurance company, without the customer's authorization or consent to sign or have someone else sign his name on any of the delivery receipts.

The suspension is in effect February 4, 2013, through May 3, 2013. ([FINRA Case #2012034249801](#))

Susan Roughton Gibbs (CRD #4803882, Registered Representative, Lakeland, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gibbs consented to the described sanction and to the entry of findings that apart from her responsibilities with her member firm, she also performed administrative tasks that were related to a registered representative's approved outside business, and misappropriated \$856.84 from the representative by charging personal expenses on a corporate credit card issued by the representative's approved outside business. The findings stated that at the time Gibbs made each of the personal charges, she was aware that she was prohibited from using the corporate card to charge personal expenses. The findings also stated that Gibbs repaid \$237.69 of the \$856.84, but did so only after the representative confronted her about the unauthorized charges he had detected. Gibbs has never repaid the representative for the remainder of the personal charges she made to the corporate card. ([FINRA Case #2011029417901](#))

Philip Ronald Giovannelli (CRD #1810070, Registered Representative, Huntington, 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 30 days. In light of Giovannelli's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Giovannelli consented to the described sanction and to the entry of findings that he participated in a private security transaction by recommending that a customer invest a total of \$51,875 in convertible preferred stock in a medical company, without providing prior written notice to his firm before recommending the purchase to the customer. The firm settled the matter by reimbursing the customer \$45,000, of which Giovannelli contributed \$10,000 towards the settlement.

The suspension was in effect from January 22, 2013, through February 20, 2013. ([FINRA Case #2011027979201](#))

James Robert Glover (CRD #1296755, Registered Representative, White Hall, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Glover consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request to appear for testimony in regard to an investigation into allegations that he misappropriated funds from a member firm customer and conducted undisclosed outside business activities through which he sold unregistered securities products. Glover's counsel reported to FINRA that Glover would not appear and provide testimony. ([FINRA Case #2012032782401](#))

Paul Grover Gomez (CRD #702551, Registered Representative, El Toro, California) submitted an Offer of Settlement in which he was fined \$75,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Gomez consented to the described sanctions and to the entry of findings that his options recommendations to customers were unsuitable based on their investment objectives, financial situations and needs, including being retired and on fixed incomes; and their lack of financial knowledge and experience, which made them unable to evaluate the risks of the recommended transactions. The findings stated that Gomez did not have reasonable grounds for believing that the recommendations to the customers were suitable in light of their financial situations and needs, and did not have a reasonable basis for believing that the customers had the knowledge and experience in financial matters to be reasonably expected to be capable of evaluating the risks of the options transactions that Gomez recommended and his options trading strategy. The findings also stated that Gomez exercised discretion in trading options in a customer's account and exercised time discretion in executing orders on behalf of other customers without the customers providing Gomez with prior written discretionary authority over their accounts. None of their accounts had been accepted by his member firm as discretionary accounts. The findings also included that Gomez utilized an uncovered index option combination writing (or selling) strategy in customer accounts. The strategy involved selling put and call options on the Standard & Poor's (S&P) 100 stock index.

The suspension is in effect from January 22, 2013, through April 21, 2013. ([FINRA Case #2009019302101](#))

Daryl Marc Holzberg (CRD #2504885, Registered Principal, Tustin Ranch, California) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any principal capacity for six months. In light of Holzberg's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Holzberg consented to the described sanction and to the entry of findings that he was the CCO of his member firm and failed to respond reasonably to red flags indicating increasing risks associated with an issuer's offering. Holzberg failed to respond to new information and failed to evaluate previously received information in the context of the new information of which he became aware. Holzberg did not take reasonable steps to evaluate the significance of these red flags in order to reassess the suitability concerns and other issues surrounding the offer and sale of the offering. The findings also stated that Holzberg relied upon unverified representations and explanations by the management of the offering's entity in evaluating the significance of the red flags in concluding that his firm should continue to offer the entity's product to customers. The findings also included that by unreasonably relying on unverified representations of the entity's management, Holzberg failed to respond reasonably to red flags indicating an increasing level of risk of an investment in the offering in the course of ongoing due diligence and risk reassessment, failed to implement required procedures to monitor compliance with the conditions he imposed upon representatives offering and selling the offering, and knew, or should have known, but permitted representatives to offer and sell securities pursuant to the private placement memorandum (PPM) containing materially false and/or materially misleading information; therefore, Holzberg failed to supervise his firm's offer and sale of the offering in a manner reasonably designed to achieve compliance with applicable laws, rules and regulations.

The suspension is in effect from February 4, 2013, through August 3, 2013. ([FINRA Case #2009018956001](#))

George Robert Hunt (CRD #2568842, Registered Principal, Sarasota, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for one year and ordered to pay \$63,500, plus interest, in restitution to a customer. The fine and restitution amounts must be paid either immediately upon Hunt'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, Hunt consented to the described sanctions and to the entry of findings that he borrowed a total of \$63,500 from a customer in a series of loans, with a promise to repay the loans at an annual interest rate of 12 percent, and that, to date, he has failed to repay any of the loans or the interest due to the customer. The findings stated that at the time of the loans from the customer, Hunt was aware of his member firm's policies and procedures, which

prohibited borrowing money from customers. Hunt also represented in annual compliance questionnaires that he had not borrowed any funds from customers. The findings also stated that on separate occasions, Hunt recommended that the customer liquidate securities in her firm account and use the proceeds to fund certain of the loans made to him. Hunt did not have a reasonable basis for recommending these transactions.

The suspension is in effect from February 4, 2013, through February 3, 2014. ([FINRA Case #2012031960001](#))

Harry Ward Hunt (CRD #1144385, Registered Representative, Medina, Minnesota) was barred from association with any FINRA member in any capacity. The NAC affirmed the findings and modified the sanctions following appeal of an OHO decision. Hunt appealed to the SEC but withdrew the application for review. The sanction was based on findings that Hunt used a customer's Social Security number and income information in an attempt to bind the customer to guarantee a \$10,000 student loan for Hunt's daughter without the customer's knowledge, authorization or consent. Hunt obtained a portion of the customer's confidential information from his member firm's customer files to complete the application. The findings stated that Hunt's firm reimbursed its brokers for certain business-related expenses incurred in the course of the broker's employment. The firm's reimbursement policy required each employee to incur and pay the expense prior to submission of a claim for reimbursement. However, Hunt submitted false claims for reimbursement totaling \$1,869.47 to the firm requiring reimbursement from the firm before he actually paid for the expenses. In these instances, Hunt submitted, as evidence of payment, checks that he photocopied and altered to give the false appearance of having been paid to the vendor and cleared by the vendor's bank. Hunt did not fabricate any of the expenses listed in the reports, thus Hunt only sought reimbursement for real costs that he had incurred, but had not yet paid. ([FINRA Case #2009018068701](#))

James Alan Issel (CRD #1350223, Registered Representative, Wayne, Illinois) 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 10 business days. Without admitting or denying the findings, Issel consented to the described sanctions and to the entry of findings that he engaged in a pattern of unsuitable mutual fund recommendations in the accounts of his member firm's customers. The findings stated that after reviewing the various share class options offered by an entity, Issel concluded that the entity's Class-T shares provided his customers the best balance of upfront sales charges and ongoing annual fees. Later, Issel began recommending to new mutual fund customers that they invest in the entity's Class-C shares because they did not have any upfront sales charge, but ongoing annual fees that were approximately .5 percent higher than those of Class-T shares. Issel's rationale for recommending the Class-C shares to his new customers was that eliminating the upfront sales charge would generate a higher return for the new customer in the short term and, therefore, increase the likelihood of the new customer remaining with Issel for the long term. The findings also stated that Issel made these

recommendations to his existing customers who had not experienced any change in their financial situation or investment objectives. Issel made the recommendations because he wanted all his customers to be invested in the same Class-C shares, which he believed would result in easier recordkeeping and more efficient exchanges within the various mutual funds. The findings also included that although the customers that converted to Class-C shares did not pay an upfront sales charge, the amount of ongoing annual expenses each customer paid increased by .5 percent, so the overall return was reduced and each of the customers was subjected to a one-year contingent deferred sales charge (CDSC) that did not exist with their Class-T shares. Some of the customers lost the opportunity to take advantage of break-point reductions in annual expenses that might have been available for new investments had they remained in the Class-T shares. FINRA found that as a result of the customers' conversion to Class-C shares, the ongoing fees paid to Issel and his member firm increased commensurate with the increase in annual fees attributable to Class-C shares.

The suspension was in effect from February 19, 2013, through March 4, 2013. ([FINRA Case #201102553601](#))

Robert Stanton Jersey (CRD #1592359, Registered Principal, Cary, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Jersey consented to the described sanctions and to the entry of findings that he failed to timely amend his Form U4 to disclose an unsatisfied tax lien. The findings stated that Jersey completed his member firm's annual employee certification on which he provided a false answer when he answered "No" to a question about whether he had any unsatisfied judgments or liens against him.

The suspension was in effect from February 4, 2013, through March 5, 2013. ([FINRA Case #2011027998801](#))

Terry Lee Jones (CRD #2026095, 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 two months. The fine must be paid either immediately upon Jones' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Jones consented to the described sanctions and to the entry of findings that he recommended and effected switches in customers' accounts from money market fund shares to Class A mutual fund shares without having reasonable grounds for believing the recommended transactions were suitable, because the transactions he recommended and effected caused the customers to incur higher charges on the Class A share purchases and deprived his customers of significant breakpoint discounts. The transactions resulted in the purchase of approximately \$3,805,344.73 of Class A mutual fund shares, resulting in the customers

collectively paying about \$51,188.46 in unnecessary mutual fund fees and Jones earning commissions totaling approximately \$31,608. The findings stated that Jones repaid the commissions to his firm towards the firm's reimbursement of breakpoint refunds made to the customers. Each of the customers received refunds in amounts ranging between \$118 and \$7,864.80.

The suspension is in effect from February 4, 2013, through April 3, 2013. ([FINRA Case #2010021718501](#))

Alan Richard Joyce (CRD #1683601, Registered Principal, Jacksonville, Florida) 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 60 business days. Without admitting or denying the findings, Joyce consented to the described sanctions and to the entry of findings that he recommended stock and mutual fund transactions in a customer's account without having reasonable grounds for believing that such transactions were suitable in view of the customer's account objectives and financial situation and needs. The findings stated that the customer won lottery proceeds in her home state. In connection with the opening of the customer's account with Joyce's member firm, an Index Advisory Service Agreement was executed that set forth the parties' responsibilities as it pertained to the measuring index, which basically represented the desired asset allocation to be maintained in the account. The findings also stated that the Index Agreement required that Joyce, on the firm's behalf, assist the customer in determining an initial measuring index, consult with the customer in making changes to the measuring index, and obtain final approval of the measuring index (as well as any recommended changes to the measuring index) from a third party assisting the customer in the handling of her lottery winnings. Joyce deviated from the 98 percent fixed income and 2 percent cash asset allocation the customer and the third party approved, to include equities and mutual funds. Other than the initial measuring index, Joyce did not obtain the approval of the customer or the third party for any of the changes to the measuring index menu. The findings also included that the overconcentration in mutual funds and equities resulting from Joyce's investment allocation was unsuitable for the account, given the customer's financial resources and needs. Joyce also recommended and effected trades in the account that caused an unsuitable overconcentration of account funds in certain individual stocks. Over the course of a year, the account suffered losses of approximately \$183,355.57, resulting in a balance of \$48,720.64. With little remaining assets in the account, and distributions continuing at the same rate, the balance had further dwindled and a final distribution of \$4,281.33 was sent to the customer. Joyce received \$2,457.32 in total compensation for handling the account. FINRA found that at various times, Joyce exercised discretionary power in the trust account established for the customer's benefit, without the trustee's written authorization to place discretionary trades and without his firm's written acceptance of the account as discretionary.

The suspension is in effect from February 4, 2013, through April 30, 2013. ([FINRA Case #2010024156301](#))

Thomas Lloyd Kunkel (CRD #2510614, Registered Representative, Eau Claire, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Kunkel consented to the described sanctions and to the entry of findings that he made unsuitable recommendations to a customer, who was an elderly and unsophisticated investor, for alternative investments with high-risk financial products. The findings stated that Kunkel recommended investments in private placements and REITs to the customer, who accepted the recommendations and invested a total of \$595,000 in the offerings. The source of funds for nearly the entire amount of these investments was the liquidation of mutual funds and variable annuities, and by the end of nearly two years, approximately 55 percent of the customer's liquid net worth was concentrated in these alternative investments. The customer eventually lost approximately \$235,000 of the \$595,000 that he invested in the alternative investments that Kunkel recommended. The findings also stated that the investments that Kunkel recommended were also illiquid. Many of them restricted investors from transferring their shares for certain periods of time or imposed penalties on such transfers. The findings also included that given the information available to Kunkel concerning the customer's financial needs and personal circumstances, he did not have reasonable grounds for believing that the alternative investments that he recommended to the customer were suitable for him.

The suspension is in effect from February 19, 2013, through April 2, 2013. ([FINRA Case #2011026362601](#))

Jon Karl LaCasse (CRD #4493929, Registered Principal, Mayer, Minnesota) 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, LaCasse consented to the described sanction and to the entry of findings that he made investments in private securities transactions totaling \$218,500 in a private company, away from his member firm, without receiving his firm's prior written approval. The findings stated that at all times relevant, the firm prohibited registered representatives from engaging in private securities transactions without receiving prior written approval. The findings also stated that LaCasse's colleague provided him with \$100,000, believing LaCasse would fund a joint investment in the private company. The colleague was not an accredited investor, and believed he was unable to make an investment himself. LaCasse and his colleague agreed that LaCasse, who was accredited at the time, would make the investment and then transfer the ownership interest to the colleague after he became accredited. The findings also included that LaCasse deposited his colleague's check into his personal checking account and made an investment in the private company for \$100,000. The investment contract LaCasse signed did not reflect any ownership by his colleague. FINRA found that while his colleague believed he was an investor in the company and attended investor meetings, he never became accredited and LaCasse never transferred the investment he purchased into the colleague's name. LaCasse reflected the \$100,000 investment on

the partner's basis worksheet that he filed with a federal tax return. LaCasse has never returned the \$100,000 to his colleague nor provided the colleague any written evidence of his colleague's interest in the investment. ([FINRA Case #2011026299501](#))

Robert Frederick LaLonde (CRD #1147314, Registered Representative, Wooster, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon LaLonde'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, LaLonde consented to the described sanctions and to the entry of findings that he sold EIAs in the total amount of \$543,112 to firm customers and received gross compensation totaling \$38,023 for those sales. The findings stated that LaLonde's sales were placed through the issuer and not through his member firm. LaLonde did not provide notice of these sales to the firm, and did not have its permission to sell these EIAs directly through the issuer.

The suspension is in effect from January 7, 2013, through May 6, 2013. ([FINRA Case #2011028824101](#))

Andres H. Madero (CRD #2101826, Registered Representative, Milford, Connecticut) 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, Madero consented to the described sanction and to the entry of findings that he maintained a premium fund account (PFA) as a non-interest-bearing bank account to deposit insurance premium payments received from customers. He received funds from customers, removed them from his office and never deposited them into the PFA, thereby misappropriating the funds. The findings stated that Madero recorded the payments to the insurance affiliate's system, which triggered the process by which electronic funds are transferred (swept) to the affiliate. The affiliate attempted to sweep premium payments from Madero's PFA and found that there were insufficient funds in the account. On each occasion, there was a discrepancy between amounts of premium payments Madero recorded as received and the actual PFA balance. The failed fund transfers totaled \$28,957.89. The findings also stated that Madero failed to deposit additional customer payments into the PFA after the firm terminated his securities registration, but while he was still an insurance agent with the affiliate. The affiliate attempted to make another sweep from the PFA, but that transfer failed because the account was short by \$5,217.66. The total dollar shortage in Madero's PFA was \$34,170.36. The findings also included that the affiliate obtained reimbursement of the missing funds by withholding Madero's bonus payments. No customer insurance policies lapsed or were canceled as a result of Madero's failure to deposit premium payments into the PFA. ([FINRA Case #2010025179801](#))

Richard Albert Mahler Jr. (CRD #2258721, Registered Representative, Staten Island, 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, Mahler consented to the described sanction and to the entry of findings that he failed to provide written notice to his member firms that he was employed by, or was an officer of, a non-broker-dealer private company. As the president of the company, Mahler was primarily responsible for its operations, having handled its formation, negotiated its contracts and controlled its finances. Mahler operated the company from its inception. The findings stated that Mahler failed to respond to FINRA requests for information and documents in furtherance of its investigation. Mahler's counsel stated in a letter that Mahler would not comply with the request. ([FINRA Case #2012032602301](#))

Richard Nobuo Maruyama (CRD #2047779, Registered Representative, Honolulu, Hawaii) was fined \$7,500 and suspended from association with any FINRA member in any capacity for 18 months. The fine shall be due and payable if and when Maruyama reenters the securities industry. The sanctions were based on findings that Maruyama mishandled a customer's securities and funds. The findings stated that Maruyama agreed to assist a customer with rolling over stock shares held in the name of a profit-sharing plan to an individual retirement account (IRA). After receiving the stock certificate from the customer, Maruyama failed to re-register the certificate in the customer's name in order to complete the re-registration and rollover for a period of almost seven years because he realized he was missing a required document. The findings also stated that during this time, Maruyama received several stock certificate dividend checks totaling approximately \$9,221.34 and another check of \$441 from proceeds from the sale of some shares to be deposited into the customer's IRA account but never deposited them and did not tell his member firm he was holding the checks, despite his knowledge about his firm's policies. The findings also included that Maruyama hid the certificate and checks during some branch inspections to avoid detection that these products had not been handled in accordance with his customer's wishes, and he was concerned about his reputation and being embarrassed about the situation. FINRA found that the firm compensated the customer for his losses, which totaled \$11,015.07, and terminated Maruyama.

The suspension is in effect from January 21, 2013, through July 21, 2014. ([FINRA Case #2010024888301](#))

Mike John Masunas (CRD #2359328, Registered Supervisor, Tuscan, 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 20 business days. Without admitting or denying the findings, Masunas consented to the described sanctions and to the entry of findings that he failed to timely disclose felony charges to his member firm. The findings stated that as a result of Masunas' failure to timely notify his firm of these material facts, he failed to timely amend his Form U4. Masunas' failure to timely amend was not willful.

The suspension was in effect from February 4, 2013, through March 4, 2013. ([FINRA Case #2011030285401](#))

Chad Allen McCartney (CRD #4294388, Registered Representative, Atlanta, Georgia) was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that McCartney submitted a false expense report and accompanying falsified documentation to his member firm, resulting in a \$500 payment to McCartney to which he was not entitled. The findings stated that McCartney did not dispute the underlying facts and admitted to the allegations of the complaint that he intentionally prepared and submitted to the firm a false expense report and, to support the false report, a fabricated receipt, a fabricated verification letter and a falsified check, for which he received monetary reimbursement of \$500 to which he was not entitled. The findings also stated that McCartney acted unethically and his conduct reflects negatively on his ability to comply with regulatory requirements.

The suspension is in effect from February 18, 2013, through August 16, 2013. ([FINRA Case #2010023719601](#))

Kimberly Michelle McCreight (CRD #4165651, Registered Principal, Snohomish, Washington) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon McCreight'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, McCreight consented to the described sanctions and to the entry of findings that her firm employed her as an operations and controls manager, of which her duties included her review of the firm's receipt of funds for registered products logs, to ensure proper handling of customer assets and to prevent possible AML issues. The findings stated that the firm's registered representatives filled out the logs to record their receipt of funds from the firm's customers and sent them by facsimile to McCreight's office, where she reviewed the logs and signed them to evidence her review. The findings also stated that on each of the logs that McCreight reviewed for almost a year, she entered an inaccurate date next to her signature, which created the impression she had reviewed the log at an earlier date than when she actually reviewed it. As a result, she caused the firm's books and records to become inaccurate.

The suspension is in effect from January 22, 2013, through March 21, 2013. ([FINRA Case #2011027069501](#))

Joseph Kent Messerly (CRD #1510186, Registered Principal, Clark Lake, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, suspended from association with any FINRA member in any capacity for six months, and ordered to pay \$280,000 in restitution to a customer. The fine and restitution amounts

must be paid either immediately upon Messerly'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, Messerly consented to the described sanctions and to the entry of findings that he borrowed \$250,000 from an individual, executed a promissory note, agreed to pay a 4 percent annual interest rate on a quarterly basis and agreed to repay the loan within five years. The findings stated that at the time Messerly executed the promissory note, the individual was not a customer of Messerly's firm. However, while the loan was still outstanding, the individual became a firm customer. The firm's written policy expressly prohibited loans from customers. Messerly failed to repay the loan or disclose the loan to the firm. The findings also stated that Messerly purchased units of ownership interest in a limited liability company, and participated in a private securities transaction by selling some units of his ownership interests in the company to the individual for \$30,000. The company's units were not firm-approved investments. The firm's written policy required registered representatives to receive prior written approval from the firm's compliance department before participating in a private securities transaction. Messerly did not provide written notice or seek the firm's written approval prior to selling his units, outside the regular scope of his employment with the firm.

The suspension is in effect from February 4, 2013, through August 3, 2013. ([FINRA Case #2011026435102](#))

Kenneth Raden Miller (CRD #1009775, Registered Representative, Lafayette, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Miller's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Miller consented to the described sanctions and to the entry of findings that he made material misrepresentations or omissions in connection with the purchases or sales of an entity's limited partnership interests to several customers in the total amount of \$1,375,000. The findings stated that despite the descriptions of the entity as high risk and the potential for total loss of principal set forth in the entity's offering memorandum, Miller made negligent misrepresentations to customers falsely representing the safety of the investments and that the investments were 100 percent guaranteed. The findings also stated that the entity began experiencing financial difficulties because of repayment defaults from loans it had extended and, consequently, it ceased making income distributions to individual investors, including Miller's customers. The SEC filed a complaint alleging offering and accounting fraud on the part of this entity. Investors in the entity have been unable to liquidate their investments, and as a result, have effectively lost the entire amount of their principal investments. The findings also included that Miller sent consolidated quarterly account statements to public customers that reflected an inaccurate value for their limited partnership investments, and omitted material

facts. FINRA found that Miller failed to submit the consolidated statement template or the outgoing statement to his member firm for review and approval, and failed to retain records of outgoing statements. FINRA also found that for more than four years, Miller effected numerous discretionary transactions in a customer's account without obtaining the customer's prior written authorization and having his firm accept the account as discretionary.

The suspension is in effect from January 22, 2013, through July 21, 2013. ([FINRA Case #2011029137801](#))

Kelly Keith Morgan (CRD #5743297, Registered Principal, Playa Del Rey, California) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for six months. In light of Morgan's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Morgan consented to the described sanction and to the entry of findings that he willfully failed to provide material information on a Form U4. The findings stated that Morgan completed and filed, or caused to be filed, a Form U4 to disclose a desist-and-refrain order the California Department of Corporations (CADC) issued against him for offering and selling unqualified securities in limited liability companies through the use of general solicitations known as cold calls. The order had become final when Morgan completed and filed, or caused to be filed, the Form U4 to become registered with a member firm.

The suspension is in effect from January 22, 2013, through July 21, 2013. ([FINRA Case #2012035189001](#))

Jeffrey Nekrutman (CRD #3136821, Registered Representative, Woodbury, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Nekrutman'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, Nekrutman consented to the described sanctions and to the entry of findings that he engaged in several business activities outside the scope of his employment with his firm and failed to seek the firm's approval, against the firm's policy, on engaging in these outside business activities. The findings stated that Nekrutman engaged in private securities transactions by selling securities away from the firm. Nekrutman recommended that firm customers invest in outside entities in which he personally invested, or was personally involved, or was not a firm-approved investment. Some customers sustained financial losses in connection with their investments. Nekrutman, against the firm's policy, failed to provide his firm with prior written notice of his private securities transactions. The findings also stated that for three years, Nekrutman made false statements when he completed his annual questionnaire and falsely indicated that he had not participated in outside business activities or engaged in any private securities transactions.

The suspension is in effect from February 4, 2013, through February 3, 2015. ([FINRA Case #2009019306701](#))

William David Netznik (CRD #829681, Registered Representative, Long Lake, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Netznik'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, Netznik consented to the described sanctions and to the entry of findings that he was the broker of record on a married couple's joint brokerage transfer on death account at his member firm. The findings stated that after the husband's death, Netznik's firm did not change the joint account to an individual account for the wife's benefit. The wife indicated to Netznik that she wished to distribute some of the funds from the joint account to her children. At Netznik's instruction, she filled out part of a wire transfer form and affixed her signature and her deceased husband's signature on the form. This form was not completed or submitted at this time. The wife thereafter also passed away, and Netznik then worked with one of her daughters, the account beneficiary, on the handling of the account. The findings also stated that acting out of a wish to honor what Netznik believed were the deceased wife's wishes and the instructions that he received from her daughter, Netznik added the date, wiring instructions and distribution instructions to the wire transfer form and submitted the form to his firm for processing. The form thus appeared to have instructions from both the husband and wife, as to the distribution of funds from the account via wire transfer. Netznik did not inform his firm at that time that both customers were deceased.

The suspension was in effect from January 7, 2013, through February 5, 2013. ([FINRA Case #2011026832701](#))

Jonathan Louis Norton (CRD #5595574, Registered Representative, Wells, Maine) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Norton'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, Norton consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose unsatisfied real estate tax liens and falsely certified to his member firm that he did not have any outstanding liens.

The suspension was in effect from January 22, 2013, through March 5, 2013. ([FINRA Case #2011029741201](#))

Antoine Rogers III (CRD #4938028, Registered Representative, Fort Worth, 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, Rogers consented to the described sanction and to the entry of findings that he took the Series 65 examination at a testing center, and during the test, took a break and reviewed materials pertaining to the examination that he had previously placed on top of a locker in the break room. The findings stated that Rogers appeared for investigative testimony with FINRA, and during the examination, FINRA discovered that Rogers had improperly recorded the testimony on his cell phone. The recording was unilateral, undisclosed and without FINRA's express written permission, which is prohibited as described in Notice to Members 00-18. ([FINRA Case #2012033782401](#))

Ernest Julius Romer III (CRD #2311741, Registered Representative, Shelby Township, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Romer consented to the described sanctions and to the entry of findings that for a period, he recommended numerous Inverse Floater CMOs transactions to customers without having a reasonable understanding of the nature, risks and rewards of each transaction he recommended. The findings stated that Romer lacked a reasonable basis to recommend the purchase and sale of Inverse Floater CMOs to his customers, and failed to perform a reasonable investigation or appropriate due diligence of each Inverse Floater CMO he recommended. Romer also failed to investigate each Inverse Floater CMO he recommended with respect to several key risk factors, including, but not limited to, the Inverse Floater CMO's mortgage pool, its structure and its expected average life. The total amount of revenue Romer earned in connection with these Inverse Floater CMO transactions was approximately \$400,000. The findings also stated that Romer used discretion to buy and sell an unknown number of Inverse Floater CMOs on behalf of some customers, without having obtained their prior written authorization to exercise discretion and his member firm's prior written acceptance of the customer accounts as discretionary. Although the firm permitted discretionary trading, Romer was required by his firm's WSPs to obtain prior written approval from the firm's Executive Committee before engaging in any discretionary trading activities. The findings also included that Romer did not have any prior experience selling Inverse Floater CMOs to retail customers, and did not have any training that provided him with specific, objective criteria or guidelines to use in conducting an analysis of each Inverse Floater CMO, prior to making a purchase or sale recommendation.

The suspension is in effect from February 4, 2013, through April 3, 2013. ([FINRA Case #2011025852103](#))

Fred Paul Sample (CRD #1009064, Registered Representative, Monroeville, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Sample'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, Sample consented to the described sanctions and to the entry of findings that he failed to amend, or timely amend, his Form U4 to disclose tax liens filed against him and a compromise with a creditor.

The suspension was in effect from January 7, 2013, through February 19, 2013. ([FINRA Case #2012031048901](#))

Anthony Joseph Sarris (CRD #2216746, Registered Representative, New Hope, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for two years, and ordered to pay \$85,000, plus interest, in restitution to customers. The restitution payment is a condition of Sarris' reassociation with a FINRA member firm following his suspension, application or request for relief from any statutory disqualification. Without admitting or denying the findings, Sarris consented to the described sanctions and to the entry of findings that he referred his life insurance clients—who were not customers of Sarris' member firm—to his father, a principal of Sarris' approved outside business. Sarris' father, who was not licensed or registered with FINRA, operated an investment advisory firm and solicited Sarris' clients to invest in funds of securities offered by another entity, often at meetings Sarris attended. Investments Sarris' insurance clients made were used in furtherance of a Ponzi scheme by the person who controlled the funds. Collectively, the investors lost \$7,341,313. The findings also stated that Sarris participated in private securities transactions without giving his firm written notice of his intentions and receiving the firm's approval. Sarris failed to provide his firm with any notice that he would be referring investors to a third party investment adviser, as required by NASD Rule 3040 and his firm's written policies and procedures.

The suspension is in effect from February 4, 2013, through February 3, 2015. ([FINRA Case #2011029690201](#))

Jim Eugene Scala Jr. (CRD #2493873, Registered Representative, Palm Harbor, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. FINRA gave Scala credit for serving a suspension imposed by his member firm while it investigated his private securities transactions. Without admitting or denying the findings, Scala consented to the described sanctions and to the entry of findings that he engaged in private securities transactions when he sold shares he owned in an alternative energy

company to individuals that included customers of his firm. The findings stated that Scala was required to give his firm prior written notice and obtain prior written approval to sell his shares of the company and he failed to do so.

The suspension was in effect from February 19, 2013, through March 11, 2013. ([FINRA Case #2011025846001](#))

Bradley Paul Schieber (CRD #2245018, Registered Representative, Orland Park, Illinois) 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, Schieber consented to the described sanction and to the entry of findings that he failed to appear for a FINRA-requested on-the-record interview in connection with an investigation into the circumstances surrounding the termination of his employment at a member firm. The findings stated that Schieber failed to notify his firm that he was engaged in an outside business activity by acting as a trustee for a firm customer. The firm prohibited its registered representatives from acting in a fiduciary relationship to its customers and specifically prohibited its registered representatives from acting as trustees for customers. The findings also stated that Schieber borrowed \$7,500 from a customer but never sought his firm's permission to borrow funds from the customer, nor did he inform the firm that he had received the loan. The firm's written procedures did not permit Schieber to borrow funds from the customer. ([FINRA Case #2011029593801](#))

Andrew Johnson Schultz (CRD #415660, Registered Principal, Medina, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon 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 he exercised discretion in customers' accounts without contacting them prior to doing so. The findings stated that the firm did not receive complaints from those customers and that the customers had given oral consent to Schultz to place orders to buy and sell securities in their accounts, but had not given written authorization for him to exercise discretion. Schultz had been the broker handling these customers' accounts at the firm, its legacy firms and other firms with which he had been associated previously. The findings also stated that the firm had not approved and accepted those customers' accounts as discretionary accounts.

The suspension is in effect from January 22, 2013, through July 21, 2013. ([FINRA Case #2011027749801](#))

Scott Shulman (CRD #1091024, Registered Representative, Potomac, Maryland) 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 10 business days. Without admitting or denying the findings, Shulman consented to the described sanctions and to the entry of findings that he had written discretionary authority from customers and his member firm had approved his use of discretion in those accounts; but the firm changed its policy and thereafter prohibited discretionary trading in securities accounts. The findings stated that Shulman continued to place discretionary transactions in the securities accounts of those customers without his customers' written authorization to place discretionary trades, and the firm had not approved Shulman's use of discretion in his customers' accounts.

The suspension was in effect from February 19, 2013, through March 4, 2013. ([FINRA Case #2011029076201](#))

Christopher Joseph Simon (CRD #4134280, Registered Representative, Linden, 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 one month. The fine must be paid either immediately upon Simon'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, Simon consented to the described sanctions and to the entry of findings that he had an outstanding loan of \$8,388.57 with a creditor and entered into a compromise to repay the loan for \$4,700. The findings stated that Simon was required to update his Form U4 to disclose his compromise with a creditor, but failed to do so. Nearly four months past the required disclosure date, Simon filed an amended Form U4 disclosing his compromise with a creditor.

The suspension was in effect from January 7, 2013, through February 6, 2013. ([FINRA Case #2011028022201](#))

Ryan Patrick Skinner (CRD #4574898, Associated Person, Woburn, Massachusetts) submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Skinner's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Skinner consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for documents and information concerning, among other things, liens and judgments that had been levied against him and his possible referrals of securities business without being properly registered.

The suspension is in effect from January 22, 2013, through July 21, 2013. ([FINRA Case #2011026369901](#))

Howard Alan Slater (CRD #2447823, Registered Supervisor, Solon, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000 and suspended from association with any FINRA member in any capacity for five months. Without admitting or denying the findings, Slater consented to the described sanctions and to the entry of findings that he sent emails to his member firm's customers in connection with their purchases of units in a limited liability company that contained material misrepresentations regarding the fund's liquidity. The findings stated that the statements Slater made were in direct contradiction to the disclosures in the PPM about the illiquidity of the fund and the significant limitations on redemptions. Slater's representations to the customers regarding the liquidity of the fund were false and misleading. The findings also stated that Slater sent an email to a firm customer who did not purchase units in the fund which made misleading and unwarranted statements regarding the safety of an investment in the fund. Slater's statements exaggerated the safety of the fund in light of the risks the fund presented so his representation regarding the safety of the fund was therefore misleading. None of the emails provided a balanced discussion of the fund and instead addressed only positive attributes of the investment. The emails omitted any discussion of the risks associated with an investment in the fund. The findings also included that Slater caused a firm customer's account records to reflect false annual income and net worth information, causing the business records the firm maintained to be inaccurate. The firm customer was in the process of investing \$80,000 in the fund through Slater. After preparing the paperwork for the purchase, Slater's assistant informed him that the proposed \$80,000 investment would increase the percentage of the customer's net worth invested in alternative investments to more than 20 percent, which would exceed firm guidelines. In response, Slater instructed his assistant to increase the customer's net worth to \$1.9 million and then to \$2.2 million, bringing the percentage of the customer's net worth invested in alternative investments (with the \$80,000 purchase) within the firm's guideline. Slater also asked his assistant to change the customer's annual income from \$30,000 to \$65,000. Slater did not have a reasonable basis for requesting the increases in the customer's net worth or for requesting that her annual income be increased. In fact, the customer's net worth was less than \$1.9 million and her annual income was not \$65,000. FINRA found that by instructing his assistant to record false net worth and annual income information on the customer's account records at the firm, Slater caused the firm's books and records to be inaccurate.

The suspension is in effect from February 4, 2013, through July 3, 2013. ([FINRA Case #2010022518102](#))

Glen Edward Smith Jr. (CRD #1023145, Registered Principal, Lake Worth, Florida) 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, Smith consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests to appear and testify regarding information needed regarding his disclosed outside business activity, and his involvement in its sale of the entity's collateralized notes.

The findings stated that Smith's failure to respond impeded FINRA's investigation and prevented FINRA from completing its regulatory responsibility to fully investigate potential rule violations. ([FINRA Case #2011028081101](#))

Melanie Susan Smith (CRD #2960612, Registered Representative, Rockaway, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for 10 business days. In light of Smith's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Smith consented to the described sanction and to the entry of findings that she solicited money from her member firm's customers. The findings stated that Smith drafted promissory notes in connection with the proposed loans, but the customers determined not to loan her the money and the notes were never signed. Smith did not disclose the proposed loans to the firm. The firm had a policy prohibiting representatives from borrowing money from customers without the firm's permission.

The suspension was in effect from February 4, 2013, through February 15, 2013. ([FINRA Case #2012031053501](#))

Ezra Demetrius Suber (CRD #2494135, Registered Principal, Newport News, Virginia) 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, Suber consented to the described sanction and to the entry of findings that he was given \$2,000 in cash to invest on a customer's behalf but instead deposited the funds into his personal bank account and used them to pay personal expenses, without telling the customer. The findings stated that Suber willfully failed to timely update his Form U4 to report liens and judgments. ([FINRA Case #2010025041602](#))

Lisa Ann Timmerman (CRD #2965346, Registered Representative, New Milford, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Timmerman'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, Timmerman consented to the described sanctions and to the entry of findings that she wrote checks totaling \$78,908 against her brokerage account when she knew, or should have known, it contained insufficient funds to cover them. The deposits and automated funds transfers (AFTs) Timmerman used to cover these checks were either uncleared or insufficiently funded at the time the check payments became due. The additional deposits Timmerman made into her account to cover the checks were eventually covered approximately five business days later. The findings also stated that Timmerman caused a \$20,000 AFT from her personal bank account to be deposited into her firm brokerage account. The bank contacted the firm to report that the \$20,000 transfer must be rejected because Timmerman had insufficient funds in her personal bank

account to cover the transfer. This caused the \$20,000 temporary credit along with a \$25 rejected transfer fee to be withdrawn from Timmerman's brokerage account resulting in a negative balance in the account. At the time the firm learned the \$20,000 AFT was drawn on insufficient funds, the alleged funds had not been utilized to cover any checks written against Timmerman's brokerage account. The findings also included that the negative balance in Timmerman's brokerage account triggered an internal review of the activity in her account by her firm. The internal review uncovered the extent and volume of Timmerman's misconduct. As a result, the firm terminated Timmerman's employment.

The suspension is in effect from January 7, 2013, through July 6, 2014. ([FINRA Case #2011029210001](#))

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 SEC sustained the sanctions following appeal of a NAC decision. The sanctions were based on findings that Tucker willfully failed to disclose judgments, bankruptcies and tax liens on his Forms U4.

The decision has been appealed to the United States Court of Appeals for the Second Circuit and the sanctions are not in effect pending review. ([FINRA Case #2007009981201](#))

Kenneth Rutger van der Vlugt (CRD #1636652, Registered Representative, Herten, Netherlands) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, which includes disgorgement of commissions in the amount of \$9,500, and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon van der Vlugt'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, van der Vlugt consented to the described sanctions and to the entry of findings that he met with the principal of a Canadian biomass energy company and customers of his firm to discuss the company's offering of common stock. The findings stated that one of these customers decided to invest in the offering. Van der Vlugt brought the company investment to the attention of an additional firm customer and she too decided to invest in the offering. With van der Vlugt's assistance, both customers withdrew money from their firm accounts to purchase company shares in connection with the private placement. The customers bought shares worth a total of C\$190,000. The findings also stated that the offering materials for the private placement stated that the company would pay a 5 percent commission for subscriber referrals, investor introductions or advisory services to be settled in cash. Van der Vlugt received C\$9,500 in compensation directly from the company, which was equal to 5 percent of the customers' investments. The findings also included that the company private placement was not offered or approved for sale by van der Vlugt's firm and he did not give prior written notice to his firm of these transactions

nor did he seek his firm's prior written approval to engage in the transactions. Van der Vlugt also failed to disclose the transactions on the firm's compliance questionnaire. FINRA found that the firm discovered van der Vlugt's conduct after the customers invested in the company during routine email review that the firm conducts as part of its control procedures. Firm compliance personnel subsequently investigated van der Vlugt's activities and terminated his employment in connection with this investigation.

The suspension is in effect from January 7, 2013, through May 6, 2013. ([FINRA Case #2011030542301](#))

Audrey Michelle Villa (CRD #5421565, Associated Person, Weslaco, Texas) submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for nine months. In light of Villa's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Villa consented to the described sanction and to the entry of findings that she worked as an administrative assistant for a registered representative and forged a customer's signature on some documents in order to process a VA transaction. The findings stated that Villa forged the registered representative's signature on some of these documents. The findings also stated that Villa failed to respond timely to requests from FINRA for on-the-record interviews.

The suspension is in effect from January 22, 2013, through October 21, 2013. ([FINRA Case #2010023560102](#))

Benjamin Franklin West (CRD #5445026, Registered Representative, Knoxville, Tennessee) was barred from association with any FINRA member in any capacity. The sanction was based on findings that West received \$5,466.58 from a customer payable to an insurance affiliate of his member firm for renewal of commercial property insurance policies, and misappropriated the funds by depositing the check into his own account and using the funds to pay personal expenses. The findings stated that after the customer contacted the affiliate and filed a complaint with the Tennessee Department of Commerce and Insurance, West deposited \$6,300 from his personal funds into the affiliate's bank account to pay the premiums for the renewal policies. The findings also stated that another customer wrote an \$809.50 check payable to the affiliate for an insurance policy, which West did not deposit into the affiliate's bank account according to the affiliate's procedures. Instead, West deposited the check into his own account and used the funds for his personal expenses. The customer filed a complaint with the affiliate and the next day West deposited \$995 of his personal funds into the affiliate's bank account to pay the premiums for the customer's policy. The findings also included that West failed to respond to FINRA requests for information and to appear and provide testimony concerning the misappropriation of funds. ([FINRA Case #2011026032101](#))

Judith Louise Woodhouse (CRD #2852394, Registered Principal, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Woodhouse consented to the described sanctions and to the entry of findings that she participated in private securities transactions, totaling \$551,652, away from her member firm. The findings stated that these investments were not made through, or known to, her firm. Woodhouse did not provide written notice to her firm before facilitating these investments.

The suspension is in effect from February 19, 2013, through May 18, 2013. ([FINRA Case #2009019940501](#))

Mark Edward Younger (CRD #1730845, Registered Principal, Santa Clarita, 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 principal capacity for 30 days. Without admitting or denying the findings, Younger consented to the described sanctions and to the entry of findings that he failed to take steps to ensure that a representative at his member firm reported his outside business activities and as a result, failed to supervise the representative in a manner reasonably designed to achieve compliance with NASD Rule 3030. The findings stated that Younger was the principal at his firm who supervised the representative. The representative informed Younger that he was attempting to raise funds through his company to build prototypes and obtain patents for new golf training products he was seeking to develop. The representative provided documents to Younger regarding the activity and Younger, through a limited liability corporation, entered into an agreement with the representative's company to contribute money toward his company in exchange for a share of any future royalties obtained through successful licensing of the company's proposed products. The findings also stated that the representative did not provide prompt written notice of the activity to his firm. Younger knew of the representative's outside business and had entered into the royalties agreement, but failed to take action to ensure that the representative provided notice of his activity to the firm. The findings also included that Younger did not himself notify the firm of the representative's activity.

The suspension was in effect from February 4, 2013, through March 5, 2013. ([FINRA Case #2011026705501](#))

Jan Irene Zenner (CRD #846577, Registered Representative, Harper, Texas) submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for four months. In light of Zenner's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Zenner consented to the described sanction and to the entry of findings that she introduced firm customers to an investment opportunity in a hotel and a mining venture, which were securities but not offered for purchase through her firm. The findings stated that Zenner provided the customers with marketing literature, a prospectus and a loan

participation agreement. The customers each invested \$25,000 and provided Zenner with a check to the issuer of the securities. The findings also stated that Zenner failed to notify her firm of the transactions or her proposed role in the transactions.

The suspension is in effect from February 4, 2013, through June 3, 2013. ([FINRA Case #2011030050401](#))

Decisions Issued

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

Denise Marie Olson (CRD #2190824, Registered Supervisor, Lakeville, Minnesota) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Olson's member firm provided her with a corporate credit card for legitimate business expenses, not personal expenses. Olson periodically used her corporate credit card for personal purposes. When Olson did so, she designated those expenditures as personal on the firm's internal computer system so that she, and not the firm, paid for her personal expenses. The findings stated that Olson charged \$740.10 worth of electronics that were gifts using her corporate credit card. Rather than designate the electronics purchase as a personal expense, Olson knowingly designated the \$740.10 charge as a business expense and falsely described the expense as office equipment for a branch-office conference room in the expense report. The findings also included that as a result of Olson's submission of the false expense report, her firm paid \$740.10 for the purchase of the electronics. Olson repaid the firm for the electronics after she was fired.

The decision has been appealed to the NAC and the sanction is not in effect pending review. ([FINRA Case #2010023349601](#))

Randy Jason Schneider (CRD #2499925, Registered Representative, West Orange, New Jersey) was barred from association with any FINRA member in any capacity and ordered to pay \$282,000, plus interest, in restitution to customers. The sanctions were based on findings that Schneider received checks totaling approximately \$39,000 from an elderly customer to deposit into the customer's brokerage account for later purchases of bonds but instead, either cashed or deposited the checks into his own bank account for his personal benefit and never disclosed the misappropriation to the customer. The customer never authorized Schneider to use the funds for his personal use. The findings stated that Schneider deposited the customer's bearer bonds into his own brokerage account, sold the bonds and used the proceeds, totaling \$223,000 for his personal use, without disclosing the sale to the customer and without the customer's authorization to sell the bonds and

take the proceeds for his personal use. The findings also stated that the customer's brother, another customer of Schneider's, delivered bearer bonds totaling approximately \$20,000 to Schneider for deposit into his brokerage account, and Schneider provided him with a receipt evidencing acceptance of the bonds. Instead of depositing the bonds, Schneider sold the bonds and took the proceeds for his own use, without authorization. The findings also included that Schneider wired portions of the funds and bond proceeds between his brokerage and personal bank accounts, which made it more difficult to trace them back to his customers. FINRA found that Schneider failed to respond to FINRA requests for information, documents and to appear for on-the-record testimony.

The decision has been appealed to the NAC and the sanctions are not in effect pending review. ([FINRA Case #2011029676001](#))

Robert Durant Tucker (CRD #1725356, Registered Representative, New York, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Tucker approved wire transfer instructions by signing them as a supervisor without authority to do so, in order to transfer \$4,500 in customer funds to his personal checking account. The findings stated that Tucker was initially able to conceal this misconduct by circumventing member firm procedures and faxing the transfer request from a retail store rather than the firm's fax machine. The findings also stated that Tucker falsified transfer documentation and circumvented firm procedures to remove funds from an elderly customer's account and deposit them into his personal checking account. Tucker, who was in financial distress, then spent the customer's money on his personal expenses. When the customer discovered the unauthorized transfer, he complained to Tucker and a compliance officer at the firm. After the firm's compliance officer confronted him, Tucker arranged for a friend to reimburse the funds to the firm for the customer's benefit. Tucker did not deny that he removed the funds. Tucker claimed that the customer had agreed to invest \$4,500 in an alternative trading platform outside the firm, and it was Tucker's plan to transfer the funds to his checking account and then to a limited liability company. The customer did not recall any discussions about the use of an alternative trading platform. The findings also included that Tucker commingled customer funds when he deposited customer funds to his personal account without the customer's consent.

The decision has been appealed to the NAC and the sanction are not in effect pending review. ([FINRA Case #2009016764901](#))

Complaints Filed

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

Randy Willis Hayes III (CRD #5361647, Registered Representative, West Palm Beach, Florida) was named a respondent in a FINRA complaint alleging that he withdrew a total of \$11,491 from customers' IRAs without the customers' or the bank's permission, thereby converting the funds. The complaint alleges that Hayes closed a customer's savings account, which held \$50,881.23 at the time, without the customer's or bank's permission or authority. Hayes transferred, without the customer's or bank's permission or authority, \$41,000 to a money market account in the customer's name but did not credit the new bank account with the \$9,881.23 difference. Hayes later deposited \$6,378 into the account. The complaint also alleges that the customer complained to the bank and Hayes about the unauthorized withdrawal of funds from his bank account. Hayes credited \$9,400 to the customer's account, which was done one day after he transferred the same amount from the other customers' IRAs. Hayes later credited an additional \$500 to the customer's account, bringing the total credited to just over the \$9,881.23 amount that he had converted from the customer's bank account. The complaint further alleges that Hayes withdrew \$800 from another customer's CD without the customer's or the bank's permission or authority, and on the same day, deposited \$500 into the previous customer's bank account. Hayes converted a total of \$22,172.23 from bank customers' accounts, which included the \$9,400 credited to one customer. In addition, the complaint alleges that Hayes forged customers' signatures on bank forms to effect the unauthorized withdrawals and transfers. Moreover, the complaint alleges that Hayes failed to respond to FINRA requests for information and to appear for testimony. ([FINRA Case #2011026546701](#))

Paul James Marshall (CRD #1889692, Registered Supervisor, Marietta, Georgia) was named a respondent in a FINRA complaint alleging that he converted funds totaling \$25,000 from his member firm's customer for purposes of investment in a real estate entity. Marshall had solicited the customer to invest in the entity and provided her with a written contract, which she signed, to invest \$30,000 in earnest money for the real estate project. Marshall failed to invest the funds on the customer's behalf, converted the funds to his own use and benefit, and to date, has failed to return any of the funds to the customer. The complaint alleges that while he was associated with another member firm, Marshall provided a business card to a customer that reflected false and misleading information. Specifically, the business card reflected that Marshall was a managing director of a certain division of another member firm. At no time was Marshall associated with or employed by the company, nor did he receive his firm's approval to use the card. The complaint also alleges that Marshall failed to fully respond to FINRA requests for information and documents. The requested documents were material to FINRA's investigation, and Marshall's failure to produce them impeded FINRA's ability to conduct the investigation. ([FINRA Case #2011029657101](#))

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

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

Max International Broker/Dealer Corp. (CRD #46039)
New York, New York
(January 29, 2013)
FINRA Case #2007007253803

Firm Cancelled for Failure to Pay Outstanding Arbitration Fees Pursuant to FINRA Rule 9553

Zecco Trading, Inc. (CRD #135398)
Glendale, California
(January 10, 2013)

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

Smith Asset Management, Inc. (CRD #43164)
New York, New York
(January 29, 2013)

Thinkequity LLC (CRD #44274)
San Francisco, California
(January 29, 2013)

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

R.W. Towt & Associates (CRD #128837)
San Diego, California
(January 2, 2013)

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.)

Donald Paul Arant Sr. (CRD #1649069)
Omaha, Nebraska
(January 28, 2013)
FINRA Case #2012032440301

Trevor Evan Baer (CRD #6087170)
Torrance, California
(January 28, 2013)
FINRA Case #2012033394301

Steven Neil Barbot (CRD #5647121)
Bronx, New York
(January 22, 2013)
FINRA Case #2011028205201

Brian Matt Borakowski (CRD #4093679)
Scottsdale, Arizona
(January 28, 2013)
FINRA Case #2011026742501

Christian P. Garza (CRD #5275816)
Laredo, Texas
(January 14, 2013)
FINRA Case #2012033436301

Alexis Javier Gonzalez (CRD #5187284)
Bronx, New York
(January 28, 2013)
FINRA Case #2012033673001

Matthew Craig Green (CRD #2844883)
Pompano Beach, Florida
(January 28, 2013)
FINRA Case #2012030881401

Liam Patrick Heinz (CRD #4470644)
Brentwood, New York
(January 18, 2013)
FINRA Case #2012032267501

Michael Jordan Katz (CRD #4426776)
Brooklyn, New York
(January 29, 2013)
FINRA Case #2011028188601

Patrick Kerry Larrabee (CRD #5871363)
Binghamton, New York
(January 22, 2013)
FINRA Case #2012033287701

Sara Kate Luff (CRD #5521419)
Groveland, Florida
(January 14, 2013)
FINRA Case #2012032913901

Gilbert Torres Martinez (CRD #4663470)
Dallas, Texas
(January 14, 2013)
FINRA Case #2012032848001

Hugo Duayth Martinez (CRD #5725931)
Miami, Florida
(January 14, 2013)
FINRA Case #2012033111101

Mark Alan McCoy (CRD #2431516)
St. Albans, West Virginia
(January 22, 2013)
FINRA Case #2012033470901

Brian L. McDowell (CRD #5312869)
Milwaukee, Wisconsin
(January 22, 2013)
FINRA Case #2012033463301

Donnie L. McMillan Jr. (CRD #5735158)
Bronx, New York
(January 4, 2013)
FINRA Case #2011026968901

Thomas Arthur Migge Jr. (CRD #1931485)
Old Tappan, New Jersey
(January 28, 2013)
FINRA Case #2012033419601

Alan Angelo Miosi (CRD #2417795)
Buffalo, New York
(January 22, 2013)
FINRA Case #2012033608401

Raschid Thompson (CRD #4849447)
Bronx, New York
(January 14, 2013)
FINRA Case #2012031983601

David Arnold Wills (CRD #5059723)
Dallas, Texas
(January 14, 2013)
FINRA Case #2012031794101

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

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

Alex Lee Bernal (CRD #5266422)
Santa Barbara, California
(January 2, 2013)
FINRA Case #2007009433401

Joey Giamichael (CRD #3248158)
Hoboken, New Jersey
(January 22, 2013)
FINRA Case #2011026060504

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.)

James Phillip Garcia (CRD #4063640)
Whittier, California
(November 13, 2012 – January 17, 2013)
FINRA Case #2012032909801

Tiffany Lynn Glover (CRD #6060179)
Chicago, Illinois
(November 19, 2012 – January 30, 2013)
FINRA Case #2012032669201

Jason T. Knapp (CRD #5063318)
Boca Raton, Florida
(January 14, 2013)
FINRA Case #2012032815001

Frank Eugene O'Toole IV (CRD #1823813)
Wilmington, Delaware
(November 19, 2012 – January 28, 2013)
FINRA Case #2012034340401

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

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

James Joseph Ahmann (CRD #2983399)
Bloomington, Illinois
(January 9, 2012)
FINRA Arbitration Case #08-04952

Christopher Lynn Belonge (CRD #4223871)
Jim Falls, Wisconsin
(January 9, 2013)
FINRA Arbitration Case #08-04952

Francis Xavier Bice (CRD #3016365)
Manhasset, New York
(January 9, 2013)
FINRA Arbitration Case #12-01595

James Robert Day (CRD #4159571)
Torrance, California
(December 3, 2010 – January 25, 2013)
FINRA Arbitration Case #10-01447

Maria Elena Fernando (CRD #1747235)
Fanwood, New Jersey
(January 16, 2013)
FINR Arbitration Case #12-00269

Marilee Ann Hill (CRD #2768544)
Washington, DC
(January 7, 2013 – January 9, 2003)
FINRA Arbitration Case #10-04075

**Joseph Branham Huntsman
(CRD #2566101)**
Newport Beach, California
(January 16, 2013)
FINRA Arbitration Case #11-01101

Eric David Johnson (CRD #1212390)
Madison, Alabama
(January 16, 2013)
FINRA Arbitration Case #12-01650

Elizabeth Anne Jones (CRD #3190846)
Red Hook, New York
(September 7, 2012 – January 23, 2013)
FINRA Arbitration Case #06-00492

David Maitland Kingsley (CRD #1744429)
Murrieta, California
(January 9, 2013)
FINRA Arbitration Case #12-00964

James Ronald Parker (CRD #356630)
Folsom, California
(January 7, 2013)
FINRA Arbitration Case #10-03003

Richard Douglas Pollan (CRD #4403612)
Huntington, New York
(September 5, 2012 – January 16, 2013)
FINRA Arbitration Case #11-01218

Aaron Virgil Porter (CRD #4354488)
Hayden, Idaho
(January 7, 2013)
FINRA Arbitration Case #11-03787

Robert Bradford Rowe Jr. (CRD #820848)
Oak Park, Illinois
(January 16, 2013 – January 25, 2013)
FINRA Arbitration Case #11-01145

Timothy Madden Sennott (CRD #2801223)
Naperville, Illinois
(January 9, 2013)
FINRA Arbitration Case #12-01395

Susan Marcia Simon (CRD #4218669)
Red Hook, New York
(September 7, 2012 – January 23, 2013)
FINRA Arbitration Case #06-00492

Carlene Beverly Veara (CRD #731444)
South Yarmouth, Massachusetts
(January 16, 2013)
FINRA Arbitration Case #10-04605

James Oather Ward Jr. (CRD #3275049)
Bentonville, Arkansas
(January 7, 2013)
FINRA Arbitration Case #11-04425

FINRA Seeks a Cease-and-Desist Order Against Westor Capital Group and its President for Misappropriation and Misuse of Customer Funds and Securities; FINRA Also Files Complaint Charging Westor and President

The Financial Industry Regulatory Authority (FINRA) announced that it has filed for a [Temporary Cease-and-Desist Order \(TCDO\)](#) against Herkimer, NY-based Westor Capital Group, Inc. and its President, Chief Compliance Officer and Financial and Operations Principal, Richard Hans Bach, to immediately stop the further misappropriation and misuse of customer funds and securities. FINRA is seeking the TCDO to prevent further customer harm that would likely continue before a formal disciplinary proceeding against Westor and Bach could be completed.

In addition, FINRA issued a [complaint](#) against Westor and Bach, charging them with failing to allow customers to withdraw account balances and deliver securities, misusing customer securities, failing to maintain physical possession or control of securities, and for operating an unapproved self-clearing business.

In one instance, when a customer sought to withdraw \$97,000 from his account, Westor refused. FINRA further charges that Westor, acting through Bach, misused 65,000 shares of customers' fully paid common stock to effect and cover short sales by another customer, without the authority to do so. As a result, Westor and Bach failed to maintain physical possession or control of securities as required by the federal securities laws and rules.

Westor's primary business is trading in microcap securities through its own accounts held at several different brokerage firms and has ineffective measures to track and reconcile its customers' stock positions. This makes it possible for Westor and Bach to conceal the improper use of securities, the complaint alleges.