

Disciplinary and Other FINRA Actions

Firms Fined

Credit Agricole Securities (USA) Inc. (CRD® #190, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report S1 transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible securities to TRACE within 15 minutes of the execution time. The findings stated that the firm failed to report the correct execution time for transactions in TRACE-eligible securities. The findings also stated that the firm failed to show the correct execution time on brokerage order memoranda. ([FINRA Case #2011028341001](#))

Deutsche Bank Securities Inc. (CRD #2525, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$215,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier for transactions in TRACE-eligible securities to TRACE, and failed to report some transactions in TRACE-eligible securities it was required to report to TRACE. The findings stated that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE, and failed to show the correct execution time on brokerage order memoranda. The findings also stated that the firm failed to disclose required information on customer confirmations. The findings also included that the firm failed to report the correct trade time to the Real-time Transaction Reporting System (RTRS) in municipal securities transaction reports. The firm failed to report information regarding purchase and sale transactions effected in municipal securities to the RTRS in the manner prescribed by Municipal Securities Rulemaking Board (MSRB) Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about such transactions within 15 minutes of trade time to an RTRS Portal. The firm failed to show the correct trade time on brokerage order memoranda.

FINRA found that the firm failed to accept or decline in the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) or the Over-the-Counter Reporting Facility (OTCRF) transactions in reportable securities within 20 minutes after execution that the firm had an obligation to accept or decline as the order entry identifier (OEID). FINRA also found that the firm failed, within 90 seconds after execution, to transmit last sale reports of OTC equity securities transactions to the OTCRF, and failed to designate some of them as late. The firm failed to

Reported for April 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).

report the correct execution time to the OTCRF in late, last sale reports of transactions in OTC equity securities. In addition, FINRA determined that the firm failed, within 90 seconds after execution, to transmit to the FNTRF last sale reports of transactions in designated securities. The firm failed to report the correct execution time for transactions in reportable securities to the FNTRF. Moreover, FINRA found that the firm effected transactions in securities while a trading halt was in effect with respect to each of the securities. ([FINRA Case #2008016381301](#))

G1 Execution Services, LLC fka E*Trade Capital Markets LLC (CRD #111528, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and ordered to pay \$121.46, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed numerous short sale transactions for which it failed to include the short sale modifier in the report of each of these transactions to the FNTRF or the OTCRF. The findings stated that the firm failed to execute, or failed to contemporaneously or partially execute, limit orders in NASDAQ securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. ([FINRA Case #2010022867501](#))

Gar Wood Securities, LLC (CRD #138033, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it facilitated the resale of restricted stock to the public in the account of one of its customers, in contravention of Section 5 of the Securities Act of 1933. The findings stated that an entity maintained an account at the firm, made loans to other entities or individuals who held low-priced stock in exchange for a pledge of that low-priced stock, sold the pledged stock and retained any profit upon the sale of the stock. The firm's customer, consistent with its business model, regularly deposited mostly penny stocks into its account, followed almost immediately by the sale of the penny stocks and subsequent wiring out of the proceeds. Physical shares bearing no restricted legend that were received into the customer's account and subsequently sold were in fact restricted from resale. The findings also stated that by failing to identify and investigate suspicious activity, and where appropriate file a Suspicious Activity Report (SAR-SF) Form, the firm failed to implement and enforce an adequate anti-money laundering (AML) program. The firm's written procedures in effect required the firm to review transaction information, and information and reports provided by its clearing firm, in an effort to spot "red flags" of suspicious activity that might be indicative of money laundering, and to file SAR-SF reports when certain questionable activities were identified. However, the firm failed to identify, document, and take appropriate steps with regard to certain red flags and suspicious activity in the customer's account. The findings also included that the firm failed to implement an effective supervisory system or enforce its written supervisory procedures (WSPs). The firm's WSPs included descriptions of possible red flags and required registered personnel to provide additional documentation for certain red flag

penny stock transactions. The firm failed to enforce its supervisory procedures or systems when it failed to conduct an inquiry about whether deposited shares were registered or exempt from registration. Instead, the firm relied on its transfer agent and clearing firm, which required that customers self-report through the submission of a Deposit Securities Request Questionnaire (DSRQ) related to each transaction. The DSRQ form sought various information related to the security. The firm could not evidence that the DSRQ was reviewed as required. The firm also failed to conduct an independent assessment of the information representing the transaction on each DSRQ form. The firm failed to confirm or investigate the customers and issuers on various aspects related to securities transactions. The firm failed to collect order records/transaction reports, new account records, records of certificates received and the designated supervisor's record of action taken, as required by its WSPs. ([FINRA Case #2010021003301](#))

Global Hunter Securities, LLC (CRD #123003, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$150,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain an adequate system for supervising written communications of associated persons conducted in a foreign language, because the firm lacked supervisory personnel with fluency in that language when certain aspects of the firm's research and investment-banking businesses involved written communications in that foreign language. As a result, the firm lacked the ability to effectively monitor those communications. The findings stated that the firm failed to establish and maintain an adequate system for monitoring employee trading activity in accounts held at other FINRA member firms. The firm failed to enforce its own procedures requiring newly hired personnel disclose their outside brokerage accounts, and failed to adequately monitor employee trading activity in such accounts. As a result of this failure, the firm failed to identify improper trading activity by a member of its research department in an account held at another FINRA member firm. The findings also stated that the firm did not have an information barrier program reasonably designed to detect and prevent employee misuse of material, nonpublic information. The New York Stock Exchange (NYSE) and FINRA issued a memorandum, Joint Memo 91-45, explaining the minimum elements of adequate information barrier policies and procedures, including but not limited to a watch/restricted list. The firm maintained a restricted list but did not maintain the list in the manner required by the firm's own procedures or by the Joint Memo 91- 45. The firm did not adequately monitor employee trading activity in accounts held at other FINRA member firms for transactions involving securities listed on the restricted list. The findings also included that the firm issued equity security research reports that failed to comply with FINRA disclosure requirements.

FINRA found that the firm failed to comply with restrictions with respect to relationships between its investment-banking and research departments. The firm permitted its chief executive officer (CEO) to serve on the research analyst compensation committee, despite his substantial involvement in the firm's investment-banking business. FINRA also found

that at various times, the firm disseminated to prospective customers a promotional slide presentation regarding particular services the firm offered. The presentation was not fair and balanced, lacked required risk disclosures and did not provide a sound basis for evaluating certain representations made in the presentation regarding the services discussed. In addition, FINRA determined that the firm failed to obtain FINRA approval prior to effecting a material change in its business operations. The firm increased its sales personnel by an amount of persons in excess of the limitations of the safe harbor provisions. ([FINRA Case #2011025644101](#))

Grand Financial, Inc. (CRD #19571, Addison, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it offered for sale private placements, which were unregistered pursuant to the exemption provided within Regulation D, Rule 506, within a few days of an initial telephone call to the offeree. The findings stated that this conduct by the firm constituted general solicitation in contravention of Section 5 of the Securities Act of 1933. The findings also stated that the firm failed to establish a supervisory system reasonably designed to achieve compliance with industry rules and regulations relating to general solicitation and telemarketing. The findings also included that the firm sent advertising materials that omitted material facts to individuals and, rather than sending the individuals the private placement memorandum (PPM) for an offering, which contained full disclosure of the risks involved in the offering, the firm sent only an executive summary that did not contain full disclosure of the risks associated with the offering. None of the individuals invested in the offering. ([FINRA Case #2011025614701](#))

Haley Securities, Inc. (CRD #104124, Omaha, Nebraska) 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 was solely engaged in the sale of private offerings of securities designed to raise equity for an affiliate; and in selling the private offerings, the affiliate relied on the Rule 506 exemption from registration under Regulation D. The findings stated that to qualify for this exemption, at the time, neither the issuer nor any agent of the issuer was permitted to sell the offering by using any general solicitation or general advertising. The firm sold some interests in the affiliate's offerings by soliciting potential investors at the suggestion of existing firm customers or at meetings convened by third parties. The firm failed to establish, maintain and enforce adequate supervisory systems and WSPs to appropriately monitor sales of private offerings of its affiliate, with a view towards complying with the SEC's interpretations of the general solicitation and advertising restrictions under Rule 502(c) of Regulation D. The findings also stated that the firm sold offerings to individuals, and a purchaser questionnaire was created for each of these individuals. Of these questionnaires, only some contained the annual income information for the customers, and none of them contained the purchaser's net worth (exclusive of their primary residence), the name and address of the purchaser's employer, and the

customer's tax status. The firm was to provide these customers with a copy of account record or an alternative document with all of the required information within 30 days after opening an account with the firm. For about three years, the firm's customers were provided with the questionnaires, but they did not receive other documentation the firm maintained that revealed their investment objectives and other background information. The findings also included that for almost two months, the firm permitted its president and supervising principal to engage in securities-related activities as a general securities principal while his registration status with FINRA was inactive due to his failure to timely complete the Regulatory Element of FINRA's Continuing Education (CE) Requirements. The president's activities included the approval of securities sales by signing and initialing subscription agreements. ([FINRA Case #2009020642101](#))

Hartford Investment Financial Services, LLC (CRD #45995, Radnor, Pennsylvania) and Hartford Life Distributors, LLC nka Forethought Distributors, LLC (CRD #8326, Berwyn, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firms were censured and fined \$100,000, jointly and severally. Without admitting or denying the findings, the firms consented to the described sanctions and to the entry of findings that Hartford Life prepared and distributed numerous copies of a brochure that discussed features of a mutual fund as an investment and was provided to downstream selling broker-dealers for use in the marketing and sale of the mutual fund to those firms' customers. The brochure was approved by Hartford Investment, the Chief Investment Advisor to the mutual fund. The findings stated that the brochure made statements regarding the mutual fund that were unwarranted and misleading in light of changing conditions in the bank loan market. In particular, the brochure contained misleading statements that the mutual fund was appropriate for bond investors concerned about the price stability of their investments, provided the potential for greater price stability compared with other fixed income investments, and was appropriate for investors seeking some degree of capital preservation. Given the conditions in the bank loan market during the relevant period, these statements were not accurate. The findings also stated that between the time when Hartford Investment became aware of conditions that rendered the statements inaccurate, and the removal of the statements on a later date, it approved the brochure at least twice. Consequently, during this period, Hartford Life distributed approximately 2,450 copies of the brochure. The findings also included that although concerns regarding the bank loan market and the mutual fund were reported to the mutual fund's board, none of Hartford Investment's employees responsible for approving the mutual fund's advertising materials participated in the meetings where these concerns were discussed. Both firms' WSPs also lacked any mechanism for ensuring that those responsible for drafting or reviewing advertising materials would be informed of material facts concerning relevant conditions in the bank loan market or the mutual fund's performance. As a consequence, Hartford Investment approved, and Hartford Life continued to distribute, thousands of copies of the brochure that contained unwarranted and misleading statements. ([FINRA Case #2010024617701](#))

Leonard & Company (CRD #36527, Troy, Michigan) 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 for more than two years, by and through its registered representatives, it effected numerous Inverse Floater Collateralized Mortgage Obligation (CMO) transactions to retail customers without having reasonable grounds for believing that the recommendations were suitable. The findings stated that while the firm had WSPs addressing CMOs, it did not have any WSPs specifically addressing the suitability of Inverse Floater CMOs. The findings also stated that the firm provided little, if any, formal training to its registered representatives that was specific to Inverse Floater CMOs. The firm's brief training program did not provide representatives with information about making a suitability determination for each customer and distinguishing between the Inverse Floater CMOs. The findings also included that the firm failed to provide sufficient point-of-sale information to its representatives to enable them to make informed and appropriate recommendations to their customers, and failed to ensure that its representatives were conversant with the unique features and specific risks associated with each Inverse Floater CMO they recommended to their retail customers. Neither the firm nor its representatives conducted an adequate investigation of each individual Inverse Floater CMO to ensure it was suitable for each individual retail customer. As a result, retail customers who lacked sophistication and/or did not have any prior experience investing in Inverse Floater CMOs were exposed to a high degree of risk and the prospect of losing a significant portion of their investment without having a sufficient understanding of the risks they were assuming.

FINRA found that the firm's supervisory system and WSPs were inadequate to ensure appropriate supervision of sales of Inverse Floater CMOs to retail customers. The firm's WSPs failed to provide specific, objective criteria, guidelines or tools that the firm and its supervisors could apply in reviewing the firm's fixed income group's process of identifying and selecting Inverse Floater CMOs that it then recommended and promoted to the firm's registered representatives for purchase and sale to retail customers. In addition, FINRA determined that the firm's WSPs failed to provide adequate guidance to firm representatives and principals for reviewing and approving each recommended Inverse Floater CMO transaction for ensuring the suitability of transactions recommended to retail customers. The WSPs also failed to identify the principal responsible for ensuring that each Inverse Floater CMO transaction was suitable for each customer, failed to identify the principal responsible for ensuring Inverse Floater CMO transaction suitability for each customer, what records to review, how often to conduct reviews, and what documentation to maintain to evidence such reviews and approvals. ([FINRA Case #2011025852104](#))

Livevol Securities, Inc. (CRD #23670, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,651, which includes disgorgement of \$2,651 in commission received. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of

findings that a customer opened an account at the firm and shortly thereafter, deposited a certificate for two million shares of a company's stock in her account. The findings stated that the customer used the means and instruments of communication and transportation in interstate commerce and of the mails to sell all two million shares of the company's stock from her account at the firm to the open market. For these sales, the firm received commissions totaling \$2,651. The findings also stated that at no time during these sales was there a registration statement in effect for the customer's shares of the company's stock and no exemption from registration existed for the customer's sales of the stock. Therefore, the firm permitted the customer to sell securities in violation of Section 5 of the Securities Act of 1933. ([FINRA Case #2011025664301](#))

Loop Capital Markets LLC (CRD #43098, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct trade execution time for transactions in TRACE-eligible securitized products that the firm submitted to TRACE during the review period. ([FINRA Case #2012031222501](#))

MetLife Securities Inc. (CRD #14251, 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 for over two years, it entered into separate settlement agreements with customers that contained language that was not permitted, in that the settlement agreements purported to restrict the ability of the settling customers to provide information to FINRA. The findings stated that as set forth in Notices to Members 95-87 and 04-44, the inclusion of such language is inconsistent with FINRA Rule 2010. ([FINRA Case #2010021801001](#))

Morgan Keegan & Company, Inc. (CRD #4161, Memphis, Tennessee) 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 issued research reports on companies, prepared by an analyst, which failed to disclose that the analyst and/or members of the analyst's household had a financial interest in the companies. The findings stated that the firm hired the new research analyst who disclosed to the firm that he and members of his household maintained multiple securities accounts at another broker-dealer, and all of the accounts were managed on a discretionary basis by an outside investment adviser, but the analyst's accounts were not blind trust accounts. Therefore, each constituted a research analyst account. The findings also stated that the firm made false disclosure regarding the analyst's ownership interest in the subject securities. The firm issued research reports prepared by the analyst which stated that the research analyst responsible for the preparation of this report did not hold investment positions of any nature in the securities of this issuer. The findings also included that the firm failed to prevent a research analyst account from

purchasing a security during the restricted period. One week before the firm initiated its coverage of a company through the research report prepared by the analyst, shares of the company were purchased in an account held at another broker-dealer by a member of the analyst's household. ([FINRA Case #2011025645301](#))

Paulson Investment Company, Inc. (CRD #5670, Portland, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. The firm has made restitution to affected customers and provided supporting documentation. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders fully and promptly. In some of these transactions, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. ([FINRA Case #2010025476201](#))

Reef Securities, Inc. (CRD #31951, Richardson, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it participated in multiple contingent offerings of securities and failed to have an adequate control location for customer funds held in escrow accounts. The findings stated that the funds were held in escrow accounts at a bank that pursuant to the escrow agreement the funds were invested in a U.S. Treasury fund that invested between 61.8 percent and 69.3 percent of its assets in overnight repurchase agreements that are impermissible investments for escrowed funds. The findings also stated that although the escrowed funds were placed in impermissible investments, they remained intact, such that no investor money was lost, and all funds were ultimately released to the issuer. As a result of the firm's failure to have an adequate control location of the investors' funds, its minimum net capital requirement increased and caused it to be in noncompliance with its net capital requirement on a certain date. The findings also included that for almost two years, the firm received customer complaints that were required to be reported to FINRA by the 15th day of the month following the calendar quarter in which the customer complaints were received but failed to notify FINRA of certain customer complaints and reported one customer complaint to FINRA 140 days late. ([FINRA Case #2011025620201](#))

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$87,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected transactions in certain securities while a trade halt was in effect with respect to each of the securities. The firm effected transactions in securities while the securities' registrations were suspended or revoked. The findings stated that the firm failed to report to the FNTRF the correct execution time for transactions in reportable securities. The findings also stated that the firm failed to report to TRACE S1 transactions in

TRACE-eligible corporate debt securities and TRACE-eligible agency debt securities within 15 minutes of the execution time. The findings also included that the firm transmitted to the Order Audit Trail System (OATS™) Reportable Order Events (ROEs) that were rejected by OATS for context or syntax errors and were repairable but the firm failed to repair more than half of the rejected repairable ROEs so that it failed to transmit them to OATS during this time period. ([FINRA Case #2009020110701](#))

Individuals Barred or Suspended

Scott Allan fka Scott Allan Karosa (CRD #1276738, Registered Principal, Henderson, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Allan'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, Allan consented to the described sanctions and to the entry of findings that he failed to provide a complete response to FINRA requests for information and documents in an investigation concerning, among other things, outside business activities, a check written from a customer to an entity controlled by Allan, and liens and judgments.

The suspension is in effect from February 19, 2013, through February 18, 2015. ([FINRA Case #2011030662001](#))

Arthur Apostol (CRD #2265647, Registered Representative, Ashford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Apostol'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, Apostol consented to the described sanctions and to the entry of findings that while he was in the process of transferring his customers' accounts from his former member firm to a new member firm, he affixed customers' signatures onto new account forms by cutting and pasting their signatures from documents they had executed earlier. Apostol then submitted those forms to his firm. The findings stated that the customers had authorized the opening of the accounts, but Apostol did not have their authorization or consent to affix their signatures to the forms. The findings also stated that on other occasions, Apostol asked customers to sign blank forms for future use.

The suspension is in effect from February 19, 2013, through May 18, 2013. ([FINRA Case #2012032570701](#))

John Michael Babiarz (CRD #3047247, Registered Principal, Peabody, Massachusetts) was fined a total of \$20,000 and suspended from association with any FINRA member in any capacity for a total of 90 business days. The fines shall be due and payable when and if Babiarz seeks to re-enter the securities industry. The sanctions were based on findings that Babiarz settled customer complaints without his member firm's knowledge or approval. The findings stated that Babiarz deceived his firm by concealing the customer complaints which kept the firm from participating in or approving the settlements. Babiarz's actions delayed the regulatory filings requiring the disclosure of complaints and settlements. The findings also stated that Babiarz caused solicited trading orders to be miscoded as unsolicited and miscoded order tickets in customer accounts. Consequently, the firm's trade confirmations sent to customers, generated from the order entry information, falsely identified solicited orders as unsolicited. Due to Babiarz's misconduct, the firm's books and records, including the orders and trade confirmations, were inaccurate and contained false information. The findings also included that Babiarz exercised discretion in customer accounts without written authorization. The customers gave Babiarz verbal grants of discretion but none of them provided Babiarz with written authorization to exercise discretion. Babiarz's firm never accepted the accounts as discretionary. During the time Babiarz was employed by the firm, it prohibited its registered representatives from exercising discretion in customer accounts. Babiarz concealed the discretionary nature of his trading from his firm for almost four years.

The suspensions are in effect from February 19, 2013, through June 26, 2013. ([FINRA Case #2009018486401](#))

David Lloyd Barber (CRD #1165082, Registered Representative, Rancho Santa Fe, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Barber consented to the described sanctions and to the entry of findings that he improperly received five loans totaling \$867,000 from three member firm customers. The findings stated that the customers were Barber's personal friends before they established securities accounts with him at his firm. The customers provided the loans to Barber by transferring their monies via wire transfer from their brokerage accounts at the firm to a checking account in the name of a business entity Barber owned that had not been disclosed to his firm. In doing so, Barber concealed the loans from the firm. Barber then moved the customers' monies via electronic funds transfers to his personal checking account and used the monies to pay personal expenses. Barber repaid the customers' loans. The findings also stated that Barber failed to provide prompt written notice to his firm of his involvement in his company, an undisclosed outside business activity.

The suspension is in effect from March 4, 2013, through July 3, 2013. ([FINRA Case #2011029162901](#))

Kenneth Eugene Bennett (CRD #2444772, Registered Representative, Machensney Park, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Bennett'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, Bennett consented to the described sanctions and to the entry of findings that he failed to timely notify his member firm and update his Uniform Application for Securities Industry Registration or Transfer (Form U4) within 30 days of the date he received notice of civil judgments filed against him.

The suspension is in effect from March 18, 2013, through April 17, 2013. ([FINRA Case #2011029979001](#))

Barbara Mary Bolk (CRD #4312607, Registered Representative, St. Charles, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Bolk'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, Bolk consented to the described sanctions and to the entry of findings that in connection with servicing an annuity contract a customer owned, Bolk allowed the customer's husband to sign a Withdrawal Enrollment Form, on the customer's behalf, when he was not an authorized signer for that account. The findings stated that on other occasions, Bolk forged the customer's signature on forms related to the annuity contract. The findings also stated that Bolk contacted her member firm's service center and impersonated the customer to cancel a systematic withdrawal scheduled for the next day. The findings also included that Bolk's firm prohibited its representatives from signing another person's name (or instructing any individual to sign another person's name) on any record or document.

The suspension is in effect from March 4, 2013, through April 15, 2013. ([FINRA Case #2012033346801](#))

William Howard Buckley (CRD #3074452, Registered Representative, Punta Gorda, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Buckley consented to the described sanction and to the entry of findings that he converted approximately \$5,000, while serving as an officer of a non-profit educational organization, by making cash withdrawals from automated teller machines (ATMs) and using the cash for his personal benefit without the the organization's knowledge or permission. The findings stated that Buckley repaid the amounts he withdrew within a short period, usually 30 days. The findings also stated that Buckley borrowed \$3,500 from

one of his customers without his firm's knowledge or permission and in violation of the firm's WSPs. The loan arrangement did not meet any of the three exceptions outlined in the firm's procedures prohibiting loans between customers and registered representatives. The customer was repaid only after he complained to the firm after Buckley's termination. ([FINRA Case #2012034225401](#))

Oran Ben Carroll (CRD #1295071, Registered Principal, Granbury, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Carroll'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, Carroll consented to the described sanctions and to the entry of findings that, acting in his capacity as the president and a registered principal of the firm, he failed to conduct adequate due diligence of private placements offered by entities for which his firm sold \$22,900,000 in interests in the entities' offerings to its customers. Carroll was affiliated with the issuers. The findings stated that Carroll failed to implement and enforce reasonable supervisory procedures for the firm relating to conducting due diligence on private placements from August 2005 through September 2010. The firm did not have any WSPs governing due diligence for private placements until January 2008. After January 2008, until at least September 2010, Carroll failed to enforce the firm's WSPs that required it to conduct due diligence for all private placements the firm sold. There were not any exceptions for offerings by issuers that were affiliated with Carroll. The findings also stated that Carroll failed to ensure that the firm created and maintained due diligence files and conducted on-going due diligence, as required by its WSPs, so it did not create or maintain due diligence files or conduct on-going due diligence on the entities' offerings. The findings also included that the firm sold interests in an entity's offerings in contravention of the general solicitation prohibition contained in Regulation D. In particular, the firm sold the offerings while details of the offerings were posted on the entity's internet website. These website postings, which constituted a general solicitation, were publically accessible and contained PPMs and term sheets for the offerings. Had Carroll or his firm conducted adequate on-going due diligence, they would have discovered that detailed information about the Regulation D offerings was publicly available.

The suspension is in effect from March 4, 2013, through December 3, 2013. ([FINRA Case #2010020844302](#))

Jaime Melissa Cassino (CRD #2793346, Registered Representative, Miller Place, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for one month. In light of Cassino's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Cassino consented to the described sanction and to the entry of findings that she effected discretionary transactions in the account of a customer without the

customer's prior written authorization and without her member firm's acceptance of the account as a discretionary account.

The suspension was in effect from February 19, 2013, through March 18, 2013. ([FINRA Case #2011027948301](#))

Dennis M. Crimmins (CRD #4622835, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Crimmins' 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, Crimmins consented to the described sanctions and to the entry of findings that he failed to timely amend his Form U4 to disclose the material fact that he had been charged with a felony.

The suspension was in effect from February 19, 2013, through March 18, 2013. ([FINRA Case #2011029149401](#))

Joshua DeNinno (CRD #5014100, Registered Representative, Moon Township, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, DeNinno consented to the described sanction and to the entry of findings that while acting as the treasurer of a local non-profit organization, he misappropriated \$60,897 belonging to the non-profit organization for his own personal use. ([FINRA Case #2012032934301](#))

Mark Antonio DiBenedetto (CRD #2552571, Registered Principal, Darien, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member as an equity trader for two weeks. The sanction takes into account that DiBenedetto's member firm suspended him for one week without pay, fined him \$75,000, issued a Letter of Admonishment, subjected him to additional compliance training, and required him to retake and pass the Series 24 examination. Without admitting or denying the findings, DiBenedetto consented to the described sanction and to the entry of findings that he manually advertised at the end of the trading day volume that substantially exceeded his member firm's executed trade volume. In one instance, DiBenedetto advertised 21,000 shares even though his firm had not traded any volume. In other instances, DiBenedetto over-advertised the firm's traded volume by between 5 percent and 69,650 percent. The findings stated that in some instances, all related to one security, DiBenedetto over-advertised volume because he believed that he was expected to maintain an active market in the security because it appeared on an investment banking focus list.

The suspension was in effect from March 5, 2013, through March 18, 2013. ([FINRA Case #2008013679404](#))

Thomas Gerard Eddy (CRD #4945463, Registered Representative, McMurray, Pennsylvania) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the allegations, Eddy consented to the described sanctions and to the entry of findings that he created an inaccurate record by signing a document that purportedly memorialized his member firm's test of its anti-money laundering compliance program (AMLCP) for a year. The findings stated that Eddy was tasked with the responsibility of completing his firm's independent test of its AMLCP. FINRA notified the firm that it was preparing to conduct an examination of the firm and at that time, the firm had not conducted an independent test of its AMLCP that met the requirements of NASD Rule 3011(c). The findings also stated that when Eddy completed the firm's test of its AMLCP and signed a document the firm prepared to memorialize tests of the firm's AMLCP, he represented himself in the document to be an independent auditor and, on a separate line on the document, entered a date months earlier than when he completed the test. The findings also included that Eddy was not eligible to conduct the independent testing because he reported to the firm's AML compliance officer. The firm subsequently gave the certification document and other documents to FINRA during the examination in connection with its requests for documents concerning its test of its AMLCP.

The suspension was in effect from March 4, 2013, through March 22, 2013. ([FINRA Case #2010024993503](#))

James William Engram (CRD #201439, Registered Representative, Columbia, South Carolina) 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, Engram consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request to appear and provide testimony regarding business activities away from his firm and utilization of a personal email account in furtherance of his outside business activities. Engram reported to FINRA that he would not appear and provide testimony. ([FINRA Case #2011028170201](#))

Richard Joseph Gobel (CRD #1161317, Registered Representative, McKeesport, Pennsylvania) 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 45 business days. The fine must be paid either immediately upon Gobel'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, Gobel consented to the described sanctions and to the entry of findings that he exercised discretionary power in customers' accounts without the customers' written authorization to place discretionary trades. The findings stated that Gobel failed to obtain his member firm's written acceptance of the accounts as discretionary and falsely certified to the firm that he was not placing trades on a discretionary basis in customer accounts.

The suspension is in effect from February 19, 2013, through April 23, 2013. ([FINRA Case #2011029227401](#))

Robert Paul Gulan (CRD #3150699, Registered Representative, Union Grove, 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. The fine must be paid either immediately upon Gulan'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, Gulan consented to the described sanctions and to the entry of findings that customers signed an individual retirement account (IRA) distribution request form and, several days later, Gulan became aware that the original form was not successfully faxed to the firm for processing and he had shredded the original form the customers had signed. Instead of obtaining new signatures, Gulan cut and pasted the customers' signatures to an IRA distribution form and submitted it to his member firm for processing, without the customers' authority.

The suspension was in effect from February 19, 2013, through April 2, 2013. ([FINRA Case #2011027925201](#))

John Melton Hackbarth (CRD #2920705, Registered Representative, Birmingham, Alabama) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hackbarth failed to respond to FINRA requests for information concerning its investigation of his financial arrangements with some customers. The findings stated that the underlying investigation sought information regarding cash gifts, loans and possible conversion of funds. ([FINRA Case #2011028083102](#))

Darin Christopher Haines (CRD #2630853, Registered Principal, Manorville, New York) 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 five business days, and suspended from association with any FINRA member in any principal capacity for an additional five business days. Without admitting or denying the findings, Haines consented to the described sanctions and to the entry of findings that he exercised time-and-price discretion in connection with block trades outside the permissible exception of NASD Rule 2510(d)(1). The findings stated that Haines was a manager of member firm branch offices, where some accounts were shared by multiple brokers, including Haines. Haines participated in effecting block trades of securities involving non-discretionary customers. There was significant overlap among the participants so that the 88 total trades involved only 44 different customers. The customers involved authorized the transactions, but they did so by telephone and for the most part on days prior to execution of the block trades. The findings also stated that Haines failed to supervise those block trades to ensure compliance with NASD Rule 2510.

The suspension in any capacity was in effect from March 4, 2013, through March 8, 2013. The suspension in any principal capacity was in effect from March 11, 2013, through March 15, 2013. ([FINRA Case #201002553301](#))

Donald Wayne Hastings (CRD #1760301, Registered Representative, Lewisville, 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, Hastings consented to the described sanction and the entry of findings that a customer provided Hastings with a check for \$12,000 to open an IRA. The customer believed the funds would be invested on his behalf and that he would receive 5 percent interest on his investment. Hastings never created the IRA nor opened an account for the customer. The customer was 73 years old and consequently an IRA could not be opened. The findings stated that Hastings deposited the customer's funds into a business account under his direction and control. Hastings paid interest to the customer using his own funds at prevailing interest rates. The findings also stated that the customer was unaware the IRA was never created and his funds were never invested in any securities or investment products. The findings also included that Hastings did not inform or seek approval from his supervisor, nor from anyone with his member firm, to commingle the customer's funds in an account under his personal control. When the customer inquired about his IRA account, the firm informed the customer that he did not have an IRA account with the firm. Hastings reimbursed the customer for the initial funds plus interest. ([FINRA Case #2012033908301](#))

Forrest Nolan Jackson (CRD #4222253, Registered Representative, Austin, Texas) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Jackson consented to the described sanction and to the entry of findings that, acting outside the course and scope of his employment with his member firm, he participated in private securities transactions from which he received selling compensation without providing prompt prior written notice to his firm of his proposed role in, or the selling compensation that he might receive from, the transactions. The findings stated that Jackson never received his firm's written approval to participate in private securities transactions. Jackson, working with others through an entity he created, participated in the sale of at least \$60 million of securities in the form of notes away from his firm. The entity generated at least \$6 million in gross revenues from the sales and Jackson received at least \$400,000 of those gross commission revenues. The findings also stated that in connection with the entity's marketing and distribution of notes, Jackson attended several meetings at the offerer's offices and attended sales training sessions that the offerer required for all individuals and other entities involved in selling the notes. The findings also included that Jackson participated in the sales of the notes by investing \$76,000 of his own funds in the notes and by referring family member to the offerer, who themselves invested a total of \$100,000 in the notes. FINRA found that Jackson prepared and provided to his firm an outside business disclosure form disclosing the entity, which stated the nature of its business was wholesaling fixed annuities. The form did not refer to the offerer, notes, securities or any investment products other than fixed annuities. ([FINRA Case #2010023502901](#))

Phillip Earl Johnson Jr. (CRD #4808529, Registered Representative, Newburgh, Indiana) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Johnson failed to provide FINRA requested documents and information regarding information on his Uniform Termination Notice for Securities Industry Registration (Form U5) a member firm filed. The findings stated that Johnson failed to appear for a FINRA on-the-record interview. ([FINRA Case #2010024221401](#))

Jack Richard Kapinus (CRD #1347798, Registered Principal, Madison, Wisconsin) 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 nine months, and barred from association with any FINRA member in any principal capacity. The fine must be paid either immediately upon Kapinus' 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, Kapinus consented to the described sanctions and to the entry of findings that he, along with two registered representatives who worked at a branch office Kapinus ran, decided to complete online examinations to become Certified College Planning Specialists (CCPS), a certification provided by the National Institute of Certified College Planners (NICCP). The findings stated that the registered representatives completed and passed their respective CCPS examinations. At or about the same time, one of these registered representatives took and passed the CCPS examination for Kapinus. As a result, Kapinus and the representatives each obtained a CCPS certification. To date, however, Kapinus has never taken the CCPS examination. The findings also stated that later, the company's representatives arrived at the branch office Kapinus ran to investigate, among other things, whether Kapinus had taken the CCPS examination. Kapinus met with the two registered representatives and directed them to provide the company's investigators with statements that Kapinus had, in fact, taken and passed the CCPS examination. The representatives each provided the investigators with a written statement that falsely reported to the firm that Kapinus had taken the CCPS examination. The findings also included that Kapinus, thereafter, provided the investigators with a written statement that falsely reported that he had taken the CCPS examination.

The suspension is in effect from March 4, 2013, through December 3, 2013. ([FINRA Case #2010024376001](#))

Timothy Francis Knauf (CRD #1902373, Registered Principal, Caledonia, 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 60 days. The fine must be paid either immediately upon Knauf'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, Knauf consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing written notice to his member firm. The findings

stated that Knauf developed a referral arrangement with a Registered Investment Advisor (RIA) firm that was not on an approved list of RIAs his firm maintained. Knauf referred some existing clients and a former client to the unapproved RIA firm. In exchange for the referrals, Knauf received \$6,071.75 in compensation from the RIA firm. The findings also stated that despite knowing that his firm maintained an approved list of RIAs, Knauf did not disclose the referrals, in writing or otherwise, to his firm. The findings also included that Knauf did not disclose his receipt of the resulting referral fees to his firm, despite being contractually obligated to share a percentage of such fees with the firm.

The suspension is in effect from February 19, 2013, through April 19, 2013. ([FINRA Case #2011026623201](#))

Shant Robert Madian (CRD #4853308, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Madian'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, Madian consented to the described sanctions and to the entry of findings that he received insider information from a supervisory equity research analyst based in the Canadian broker-dealer affiliate of Madian's firm, and proceeded to contact individuals at different investment firms, hedge funds and mutual funds to disseminate this information. Madian knew, reasonably should have known, or disregarded the possibility that the persons he contacted would likely purchase shares of the purported acquiring company in a purported merger and/or sell short shares of the company allegedly being acquired. Madian did not discuss with, or otherwise disclose to his firm's compliance department, the information he received prior to disseminating that information. Although he did not know it at the time, the information provided to Madian turned out to be false. The findings stated that Madian had signed as a condition of his employment an annual certification that he would comply with his firm's insider trading policy. By passing on the information he received, Madian disseminated information about the potential acquisition to others in the securities industry, failed to disclose to his firm's compliance department that he had obtained specific information about a potential acquisition, and failed to take steps to investigate whether the information was material non-public information improperly obtained before disseminating it. The findings also stated that Madian violated ethical standards for securities professionals, as well as his firm's insider trading policy.

The suspension is in effect from February 19, 2013, through August 18, 2014. ([FINRA Case #2009020803101](#))

John Fredrick Mazzarella Jr. (CRD #1175843, Registered Representative, Glen Mills, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Mazzarella failed to appear for an on-the-record

interview and to provide documents FINRA requested in connection with an investigation concerning his outside business activities and payment of any money to some customers. ([FINRA Case #2010024021202](#))

Azim Nakhooda (CRD #2913470, Registered Representative, Chagrin Falls, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for nine months. Without admitting or denying the findings, Nakhooda consented to the described sanctions and to the entry of findings that he sent emails to member firm customers in connection with their purchases of units in a fund that was a limited liability company and promissory notes that contained false and misleading statements, including material misrepresentations regarding the liquidity and safety of the fund and the safety of the notes. The findings stated that Nakhooda's statements to customers relating to the fund's liquidity directly contradicted the disclosures in the fund's PPM about the illiquidity of the fund and the significant limitations on redemptions. Nakhooda's statements regarding the safety of the fund also directly contradicted the disclosures of significant risks in the fund's PPM. The executive summary of the notes that Nakhooda emailed stated that the notes provided principal protection, which was directly contrary to disclosures in the note's PPM about the potential risks to principal. Therefore, Nakhooda's representations to the customers regarding the liquidity and safety of the fund and the principal protection afforded by the notes were false and misleading. The findings also stated that Nakhooda sent the fund's executive summary to firm customers, who did not purchase the fund. The executive summary represented that the fund was completely liquid after 60 days or completely liquid after 90 days. These statements were false. Other statements in the fund's executive summary exaggerated the safety of the fund in light of the risks presented by the fund's PPM. Nakhooda's representations to customers regarding the safety of the fund were, therefore, misleading. The findings also included that Nakhooda sent the note's executive summary to firm customers, who did not purchase the notes. The note's executive summary claimed that notes provided principal protection, which directly contradicted disclosures in the note's PPM about the potential risks to principal. Other statements in the note's executive summary exaggerated the safety of the notes in light of the risks presented by the note's PPM. Nakhooda's representations to customers regarding the safety of the notes were, therefore, misleading. FINRA found that none of Nakhooda's communications with any of the firm customers provided a balanced discussion of the fund and notes and instead addressed only positive attributes of the investments. The communications omitted any discussion of the significant risks associated with an investment in the fund and the notes.

The suspension is in effect from March 18, 2013, through December 17, 2013. ([FINRA Case #2010022518103](#))

James Eesong Ooi (CRD #2423220, Registered Principal, Duarte, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ooi consented to the described sanction and to the entry of findings that he used unauthorized notes during a CE Regulatory Element session to complete the S106 Regulatory Element Program although he had acknowledged and agreed to follow the FINRA Test Center Rules of Conduct. The findings stated that test center personnel stopped Ooi's session after they observed him repeatedly rolling up his shirt sleeve and appearing to read something written on his left arm. The test center personnel examined Ooi's arm and saw a series of numbers and letters written in black ink. The findings also stated that FINRA later determined that the numbers and letters corresponded to the answers to the questions on the scenario of the module that Ooi was attempting when test center proctors stopped the session. ([FINRA Case #2012032545901](#))

David Foster Pendergast (CRD #1935180, Registered Principal, Westwood, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Pendergast'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, Pendergast consented to the described sanctions and to the entry of findings that his member firm asked him to obtain suitability information from his customers related to their financial status, and to update that information in the firm's electronic database. The findings stated that shortly thereafter, Pendergast updated the firm's electronic records concerning married customers' suitability-related background information (including their annual incomes, estimated net worth, investable/liquid assets and federal tax brackets) from "not provided" to estimated specific amounts without their knowledge and without having spoken to them in advance about the information. The findings also stated that as a result, Pendergast caused his firm's books and records to be inaccurate.

The suspension was in effect from February 19, 2013, through March 18, 2013. ([FINRA Case #2012032719801](#))

Richard Piccinini Jr. (CRD #2789343, Registered Representative, Collegeville, 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 Piccinini'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, Piccinini consented to the described sanctions and to the entry of findings that he sold fixed insurance policies to people outside the scope of his employment with his firm and without providing prior written notice of his business

activity. The findings stated that Piccinini received approximately \$13,944 as compensation for the undisclosed insurance policy sales. Piccinini inaccurately certified to his firm on a compliance questionnaire that he did not engage in any outside business activity.

The suspension is in effect from March 4, 2013, through April 15, 2013. ([FINRA Case #2012032284301](#))

Richard Prim Jr. (CRD #3187377, Registered Representative, Houston, Texas) 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 six months and ordered to pay \$3,500, plus interest, in restitution to a customer. The fine and restitution amounts must be paid either immediately upon Prim'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, Prim consented to the described sanctions and to the entry of findings that while registered with a former FINRA member firm, he borrowed \$6,000 from a firm customer; did not provide notice to, or receive permission from, the firm to borrow from the customer; and the firm's WSPs prohibited borrowing from customers. The findings stated that Prim willfully failed to amend his Form U4 to disclose a civil judgment and Internal Revenue Service (IRS) tax liens. The judgment and liens were never disclosed on Prim's Form U4. During the time, FINRA firms had filed numerous Form U4 amendments on Prim's behalf.

The suspension is in effect from March 4, 2013, through September 3, 2013. ([FINRA Case #2011028869801](#))

Michael Francis Rail Jr. (CRD #1386284, Registered Principal, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member as an equity trader for two weeks. The sanction takes into account that Rail's member firm suspended him for one week without pay, fined him \$100,000, issued a Letter of Admonishment, subjected him to additional compliance training, and required him to retake and pass the Series 24 examination. Without admitting or denying the findings, Rail consented to the described sanction and to the entry of findings that he manually advertised trade volume that substantially exceeded his member firm's executed trade volume. In three instances, Rail advertised between 25,000 and 40,000 shares, even though the member firm had not traded any volume. In other instances, Rail over-advertised the firm's traded volume by between 7 percent and 20,569 percent. In at least nine of the instances, Rail over-advertised volume in order to attract customer order flow.

The suspension was in effect from February 19, 2013, through March 4, 2013. ([FINRA Case #2008013679403](#))

Michael Jason Rapley (CRD #2649342, Registered Principal, Charlotte, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 days. Without admitting or denying the findings, Rapley consented to the described sanctions and to the entry of findings that he sent and received dozens of business-related emails to his member firm's customer through his personal email account. The findings stated that Rapley was aware of his firm's written policy prohibiting employees from using personal non-firm email accounts to send and receive emails relating to the firm's business. Rapley also failed to provide the firm copies of the unauthorized business emails, by either forwarding them to the firm electronically or printing them and sending the printed copies to the firm, for review and retention. Rapley prevented his firm from reviewing and retaining all of his business correspondence with the customer, thereby the firm was unable to fulfill its supervisory and recordkeeping obligations.

The suspension was in effect from March 18, 2013, through April 1, 2013. ([FINRA Case #2010024535501](#))

Theresa I. Reyes (CRD #5544722, Registered Representative, San Diego, California) submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Reyes consented to the described sanction and to the entry of the findings that she repeatedly used her capacity as a personal banker at her member firm's affiliate bank to engage in activity in a customer's business credit card account without the customer's knowledge or authorization. The findings stated that Reyes' unauthorized actions included adding her husband as an authorized user, requesting that a credit card be issued on the account in her husband's name and increasing the customer's credit limit. Reyes also set up an online credit card account profile for the customer, enrolled the customer in the bank's online payment service and made a payment to the credit card account. After the affiliate bank removed Reyes' husband from the credit card account at the customer's request, Reyes arranged for her husband to be added back as an authorized user and also requested that another card be issued in her husband's name and sent to her branch bank location. The findings also stated that over a period of more than two months, Reyes and her husband converted approximately \$15,277.35 of the customer's funds by charging multiple unauthorized personal expenses to the customer's credit card account. The findings also included that Reyes failed to appear for testimony FINRA requested. ([FINRA Case #2011030672401](#))

Juan C. Santana (CRD #5765309, Registered Representative, Bronx, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Santana'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, Santana consented to the described sanctions and to the entry of findings that he made misrepresentations to a bank customer who mistakenly left his wallet in the bank branch where Santana worked. The findings stated that Santana noticed the wallet, retrieved it, and took the wallet back to his desk, where he placed it out of sight. When the customer came back into the bank and asked Santana whether he had seen the wallet, Santana lied and told the customer that he had not seen the wallet. The findings also stated that the customer's wallet contained his identification, credit cards and \$50 in cash. After the customer left the bank, Santana placed the cash in an envelope for safekeeping. Santana then went to a post office mailbox across the street from the bank and placed the wallet in the mailbox. Santana mailed the wallet with the intention that the post office would return the wallet to the customer's home address. Santana did not place the wallet in an envelope or otherwise safeguard it, and the wallet was never returned to the customer. The findings also included that the following day, Santana retrieved the customer's telephone number from the bank's records and telephoned the customer. Santana stated that a stranger had found the wallet and put it in a post office mailbox. Santana also stated that the stranger had removed the customer's cash from the wallet and provided it to Santana in an envelope. Santana asked the customer to return to the bank to retrieve the envelope. The customer did so and recovered the total amount of cash that had been in his wallet. FINRA found that bank investigators questioned Santana and his employment with the bank was terminated. The bank notified Santana's member firm, which then terminated his employment.

The suspension is in effect from March 4, 2013, through April 15, 2013. ([FINRA Case #2011028863301](#))

Sean Francis Sheridan (CRD #3151928, Registered Representative, Oakhurst, New Jersey) 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, Sheridan consented to the described sanction and to the entry of findings that he recommended and effected unsuitable mutual fund switches in customers' accounts. The findings stated that Sheridan only recommended Class A mutual fund shares to the customers, resulting in them having to pay additional sales charges with each new purchase. Sheridan also engaged in the short-term trading of mutual fund positions in the customers' accounts. The findings also stated that Sheridan recommended and effected the transactions in the customers' accounts without having reasonable grounds for believing that such transactions were suitable for the customers in view of the size and frequency of the transactions, the transactions costs incurred, and in light of the customers' financial situations, investment objectives and needs. The customers lost a total of approximately \$1,048,856 and Sheridan received commissions of approximately \$267,000. The findings also included that Sheridan failed to disclose to the customers that they could avoid a sales charge for each new Class A mutual purchase through the use of a free exchange, which was material information. Because Sheridan failed to provide the customers with the option of utilizing

free exchanges, the customers paid front-end sales loads of approximately 4 percent to 5 percent for each mutual fund investment. By virtue of this conduct, Sheridan willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. FINRA found that Sheridan provided false information to his member firm regarding the mutual fund transactions involving the customers. Sheridan solicited the mutual fund transactions, yet he falsely identified those transactions as unsolicited when placing the trades through the firm's electronic order entry system, thereby causing the firm's records to be inaccurate. ([FINRA Case #2009019209204](#))

Roman Jerzy Sledziejowski (CRD #3141438, Registered Principal, Ossining, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. In light of Sledziejowski's financial status, no monetary sanction has been imposed. Without admitting or denying the allegations, Sledziejowski consented to the described sanction and to the entry of findings that as part of a fraudulent scheme, he converted and/or misused funds of his member firm's customers and provided false account statements to some of those customers in an attempt to conceal the misconduct. The findings stated that during the course of Sledziejowski's fraudulent scheme, a total of approximately \$4.8 million was wired to a company that Sledziejowski owned from the bank and brokerage accounts of firm customers. The findings also stated that Sledziejowski provided some of the customers with account statements and account snapshots that displayed account balances consistent with what the customers believed to be in their firm brokerage account. Based on the actual account statements provided by the firm's clearing firms, the statements Sledziejowski provided were fabrications and the values and holdings in the customers' firm brokerage accounts differed significantly from what Sledziejowski led them to believe were in their brokerage accounts. To date, Sledziejowski has only returned approximately \$1.5 million of those funds to the customers. The findings also included that Sledziejowski failed to cooperate with FINRA's investigation and failed to appear for an on-the-record interview. ([FINRA Case #2012033559602](#))

William M. Somerindyke Jr. (CRD #4259702, Registered Representative, Chesapeake, Virginia) was fined a total of \$15,000 and suspended from association with any FINRA member in any capacity for a total of 40 business days. The fines are due and payable upon Somerindyke's return to the securities industry. The sanctions were based on findings that Somerindyke participated in outside securities transactions without providing his member firm with prior written notice. The findings stated that the transactions were outside the scope of Somerindyke's employment with his firm. Somerindyke solicited investors to invest in companies he founded with another individual. Somerindyke deposited the funds into the companies' bank accounts and used the funds to conduct the companies' business. The findings also stated that Somerindyke engaged in outside business activities relating to one of those companies without providing prompt written notice to his firm.

The suspensions were in effect from February 4, 2013, through April 2, 2013. ([FINRA Case #2009020081301](#))

Rashima Thomas (CRD #5046829, Associated Person, Santa Monica, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Thomas failed to respond to FINRA requests for information concerning possible improper cancellations and rebills of trades from customer accounts into the account of a registered representative at the member firm that employed Thomas. ([FINRA Case #2011029913301](#))

Costa Tzotzis aka Steve Tzotzis (CRD #3102114, Registered Principal, Huntington, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Tzotzis consented to the described sanctions and to the entry of findings that he exercised time-and-price discretion in connection with block trades outside the permissible exception of NASD Rule 2510(d)(1). The findings stated that Tzotzis shared certain customer accounts with multiple brokers. Tzotzis participated in effecting block trades of securities involving non-discretionary customers. There was significant overlap among the participants so that the 88 total trades involved only 44 different customers. The customers involved authorized the transactions, but they did so by telephone and for the most part on days prior to execution of the block trades.

The suspension was in effect from March 4, 2013, through March 8, 2013. ([FINRA Case #2010025553302](#))

Kelly Ann Willey (CRD #4551080, Registered Representative, Morrisville, Pennsylvania) 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, Willey consented to the described sanction and to the entry of findings that she directed an elderly member firm customer to write checks out to Willey personally. The findings stated that the checks totaled \$1,200 and were written under the pretense that such money served as payment for Willey's financial services. Willey never rendered the services for which the checks were written and improperly used and/or converted the \$1,200 for her own personal use. The findings also stated that Willey maintained forms in her customer files including account redemption forms and account change forms, which contained customer signatures but were otherwise blank. Willey also maintained a financial planning agreement form in her customer files that contained a falsified customer signature. Firm policy prohibited registered representatives from accepting checks made out to the representative personally, requesting a customer to sign a blank or incomplete form, and falsifying customer signatures. ([FINRA Case #2011030536101](#))

Edward Eugene Williams (CRD #2184339, Registered Representative, Loganville, Georgia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Williams' misappropriated a total of \$2,548.83 from his adult sons' IRAs by utilizing a mutual fund's website to electronically request early distribution checks made out to the sons, received the checks, forged their signatures on the checks and endorsed most of them for deposit in his own bank account, without their knowledge or consent. ([FINRA Case #2011028547502](#))

Mark Timothy Youngs (CRD #1270135, Registered Supervisor, Annapolis, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Youngs consented to the described sanctions and to the entry of findings that he recommended to a brokerage customer that he sell a municipal bond and purchase a unit investment trust (UIT) comprised of certain international bonds. The findings stated that having understood the customer to have authorized the transactions, Youngs sold the bond and purchased the UIT in the customer's account. After having received confirmations of the transactions, the customer confronted Youngs questioning the sell transaction in his account and claiming that it had not been authorized. After this interaction, Youngs created and provided to the customer a document that made it appear that the municipal bond had been redeemed by the issuer, rather than sold. The findings also stated that when Youngs' manager questioned him about the transactions in the customer's account, Youngs immediately admitted that he had created and provided to the customer a fictitious redemption notice. The firm terminated Youngs' employment.

The suspension is in effect from March 4, 2013, through July 3, 2013. ([FINRA Case #2011028977501](#))

Daniel John Zigo (CRD #2909624, Registered Representative, White Lake, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for four months. In light of Zigo's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Zigo consented to the described sanction and to the entry of findings that he willfully failed to amend his Form U4 to disclose civil judgments and tax liens within 30 days of learning of the judgments and liens, as required.

The suspension is in effect from February 19, 2013, through June 18, 2013. ([FINRA Case #2011027408403](#))

Individual Fined

Kenneth Paul Gettinger (CRD #1511817, Registered Representative, Park City, Utah) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Gettinger consented to the described sanctions and to the entry of findings that he maintained securities accounts at different member firms and failed to provide timely written notice to his member firm concerning the accounts. The findings stated that when Gettinger joined the firm, he orally notified the firm concerning each of the accounts, providing the firm with written notice of the accounts many years later. The findings also stated that Gettinger failed to provide any notice to the firms where the accounts were located that he was registered with his firm until he provided them with written notice a few more years later. ([FINRA Case #2011028859501](#))

Complaints Filed

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

Kenny Akinfolarin Akindemowo (CRD #4315718, Registered Representative, Wayzata, Minnesota) was named a respondent in a FINRA complaint alleging that he induced individuals to invest a total of \$15,000 in private securities transactions. The complaint alleges that instead of using the money as promised, Akindemowo misappropriated it and converted it to his own use and never repaid the money. Akindemowo intentionally misrepresented material facts, to the individuals, about how the funds they were investing would be used and about the purpose of the supposed investment, and intentionally misled an individual as to material facts about when she would be able to receive her investment back. The complaint also alleges that Akindemowo failed to provide written notice to his member firm of, and obtain its permission for or acknowledgement of, his participation in the private securities transactions. The complaint further alleges that Akindemowo failed to provide prompt written notice to his firm about his creation of, and participation in, an outside business venture. ([FINRA Case #2011029619301](#))

Shawn Charles Haynes (CRD #2939522, Registered Representative, Roosevelt, New York) and **Jaoshiang Luo aka Rudy Luo (CRD #2143876, Registered Representative, Flushing, New York)** and **Juan Carlos Parets (CRD #4839759, Registered Representative, New York, New York)** were named respondents in a FINRA complaint alleging that they violated their suitability obligations, made material misstatements, and omitted material facts in connection with the sale of promissory notes issued by their member firm's parent

company. The issuer defaulted on the payments it owed to retail investors who purchased the notes. The complaint alleges that none of the respondents had a reasonable basis for recommending the promissory notes to any customer and did not take any meaningful steps to understand the issuer's financial condition prior to selling the notes, such as reviewing financial statements or other financial information. Each of the respondents recommended the notes to specific customers for whom the speculative investment was unsuitable. The complaint further alleges that Parets, Luo, and Haynes made misstatements and omissions concerning material facts for investors, including the actual financial condition of the issuer, their lack of understanding of the financial condition of the issuer and the safety of the promissory note investments. In addition, the complaint alleges that Parets, Luo and Haynes each failed to conduct a reasonable investigation of the issuer to determine whether the securities being offered were suitable for recommendation to any customer. Moreover, the complaint alleges that Parets, Luo and Haynes did not have reasonable grounds to believe their recommendations to customers were suitable on the basis of the facts the customers disclosed as to the customers' other securities holdings and financial situation and needs. Furthermore, the complaint alleges that Parets sold unregistered promissory notes, as there was no registration statement in effect under the Securities Act of 1933 when the sales occurred. The sales constituted an unregistered distribution of securities and did not qualify for an exemption from registration. Parets sold the notes to unaccredited investors, in spite of red flags indicating that this would constitute taking part in an illegal unregistered distribution. The complaint also alleges that Haynes signed a customer account form he knew contained false information about a customer's investment objective and risk tolerance and caused the account form to be maintained as a record by his firm. ([FINRA Case #2011026346206](#))

Keilen Dimone Wiley (CRD #4259612, Registered Representative, Houston, Texas) was named a respondent in a FINRA complaint alleging that he collected approximately \$6,500 in premium payments from insurance customers. The complaint alleges that Wiley did not deposit the insurance premium payments into the co-banking account as required, but deposited the premium payments into one of his undisclosed personal and business accounts he established and controlled at a bank and used the premium payments collected from insurance customers for his own use. The affiliate of Wiley's member firm deposited his commission check in the amount of \$8,079.04 into one of Wiley's business accounts. Wiley used the money to repay the outstanding insurance premium amounts owed to the affiliate. Wiley wrote checks for \$1,690.64 and \$1,954.52 from one of his business accounts and deposited them into the co-banking account, and subsequently withdrew \$2,250.94 in cash from the same business account and deposited that amount into the co-banking account the same day. The complaint also alleges that Wiley's manager and an internal auditor from the affiliate came to Wiley's office to investigate delayed deposits of customer insurance premiums into the co-banking account. During the audit, Wiley admitted that he had delayed depositing customer insurance premiums and had used those funds for personal and business expenses. Wiley also signed a written

statement at the conclusion of the audit admitting, among other things, that he needed funds for his bank account and delayed depositing the insured customers' cash collections into the company co-banking account by a month or more, and further explained that the customer collections did end up being used to pay for his personal and business expenses. The complaint further alleges that in a written follow-up statement to his manager, Wiley again admitted that he used customer premiums to pay his mounting personal and business expenses. Wiley also admitted that he started using customer payments and repaying the affiliate later, stating it was a risk he was willing to take because he had to keep the business going. In addition, the complaint alleges that Wiley provided false and misleading testimony to FINRA by denying the use of customer insurance premiums for personal and business use. ([FINRA Case #2011028061001](#))

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

EZ Stocks, Inc. (CRD #103866)
Brookfield, Wisconsin
(February 27, 2013)
FINRA Case #2011025846601

**Hedge Fund Capital Partners, LLC (CRD
#113326)**
Brooklyn, New York
(February 21, 2013)
FINRA Case #2006004122402

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

Hayden Stone & Co., LLC (CRD #150872)
Pittsburgh, Pennsylvania
(February 15, 2013)

**Firm Suspended for Failure to Provide
Information or Keep Information Current
Pursuant to FINRA Rule 9552**

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

R.W. Towt & Associates (CRD #128837)
San Diego, California
(February 5, 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.)

Donna A. Baskerville (CRD #5713753)
Houston, Texas
(February 19, 2013)
FINRA Case #2012033993501

Anna Fan (CRD #5990073)
Brooklyn, New York
(February 4, 2013)
FINRA Case #2012031959401

Lynn Robert Goldney (CRD #1325181)
Lake Havasu City, Arizona
(February 19, 2013)
FINRA Case #2011027853401

George Grafas (CRD #2427969)
Jericho, New York
(February 11, 2013)
FINRA Case #2011030652501

David Miller (CRD #2570012)
Rockville Centre, New York
(February 12, 2013)
FINRA Case #2012034613301

Gladys Gemma Oliva (CRD #2805990)
Beacon, New York
(February 19, 2013)
FINRA Case #2012033939201

Reginald Pierre (CRD #6051494)
Brooklyn, New York
(February 22, 2013)
FINRA Case #2012032314901

Phillip Quist (CRD #5799622)
New York, New York
(February 19, 2013)
FINRA Case #20102033867401

Byron Ray Walston (CRD #2699991)
The Hills, Texas
(February 19, 2013)
FINRA Case #2011030090301

Courtney Lynette Whalum (CRD #4360310)
Franklin, Tennessee
(February 11, 2013)
FINRA Case #2012033340701

Individual 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.)

Timothy Alexander Day (CRD # 4190874)
New York, New York
(December 11, 2012 – February 19, 2013)
FINRA Case #2010022640002

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.)

Leslie John Emken (CRD #1424816)
Farmington, Illinois
(February 19, 2013)
FINRA Case #2011028247001

Frederick Burton Fisher Jr. (CRD #4377623)
Middleburg, Florida
(January 31, 2013)
FINRA Case #2010025252001

Fordin Lee Francois (CRD #5026503)
Laurelton, New York
(February 19, 2013)
FINRA Case #2012033434401

Gregory Evan Goldstein (CRD #2412387)
Stevenson Ranch, California
(February 15, 2013)
FINRA Case #2011030210101/FPI120005

Joseph James Hennessy (CRD #1380254)
Western Springs, Illinois
(February 25, 2013)
FINRA Case #2012033110701

Philip David Horn (CRD #2238037)
Tarzana, California
(February 4, 2013)
FINRA Case #2011029913301

Gary Stephen Klem (CRD #727502)
Line Lexington, Pennsylvania
(February 11, 2013 – March 18, 2013)
FINRA Case #2012031211501

Michael Louis O'Brien (CRD #1049397)
Hedysville, West Virginia
(February 25, 2013)
FINRA Case #2011030800301

Michael Henry Ohlfs (CRD #2663810)
Parker, Colorado
(February 22, 2013)
FINRA Case #2011029016801

Jonathan Michael Patchen (CRD #2593349)
New York, New York
(February 25, 2013)
FINRA Case #2012034305701

Abigail Marsh Preston (CRD #730629)
Buffalo, New York
(February 11, 2013)
FINRA Case #2011029035901

Michael J. Roland (CRD #5392308)
Brooklyn, New York
(February 11, 2013)
FINRA Case #2012034171101

Donald Allen Siberell (CRD #423151)
Granger, Indiana
(February 19, 2013)
FINRA Case #2012030742401

David Paul Trocasso (CRD #4949123)
Riverside, California
(February 11, 2013)
FINRA Case #2012033946501

Peter Van Hamm (CRD #2530393)
Dunellen, New Jersey
(February 4, 2013)
FINRA Case #2011030191101

**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.)

**Khairi Dwayne Abdur-Rahman (CRD
#4597399)**
Sutton, Massachusetts
(February 15, 2013)
FINRA Arbitration Case #10-04926

Dennis Robert Metter (CRD #844543)
Chicago, Illinois
(February 1, 2013)
FINRA Case #20120349238/
ARB120072/10-04594

Krittibas Ray (CRD # 3039388)
Albany, California
(February 15, 2013)
FINRA Arbitration Case #11-01073

Brett Stephen Schulick (CRD #2243075)
Houston, Texas
(February 15, 2013)
FINRA Arbitration Case #10-04965

Glen Edward Smith Jr. (CRD #1023145)
Lake Worth, Florida
(February 15, 2013)
FINRA Arbitration Case #12-03350

Matthew Alan Tarrance (CRD #4516353)
Safety Harbor, Florida
(February 15, 2013)
FINRA Arbitration Case #11-02934

Kaream Hassan White (CRD #3109919)
Gilbert, Arizona
(February 15, 2013)
FINRA Arbitration Case #11-00061

FINRA Fines Five ING Firms \$1.2 Million for Email Retention and Review Violations

The Financial Industry Regulatory Authority (FINRA) announced that it has fined five affiliates of ING \$1.2 million for failing to retain or review millions of emails for periods ranging from two months to more than six years. The five firms, indirect subsidiaries of ING Groep N.V., are Directed Services, LLC; ING America Equities, Inc.; ING Financial Advisers, LLC; ING Financial Partners, Inc.; and ING Investment Advisors, LLC.

Brad Bennett, Executive Vice President and Chief of Enforcement, said, “As a result of broad systemic failures, these firms failed to capture and retain emails from hundreds of representatives and other associated persons, and failed to take adequate steps to ensure that their principals were fulfilling their responsibilities to review emails. Email retention and review continues to be an important regulatory responsibility and an issue of concern for FINRA.”

FINRA found that the firms failed to properly configure hundreds of employee email accounts to ensure that the emails sent to and from those accounts were retained and reviewed at various times between 2004 and 2012. In addition, four of the firms failed to set up systems to retain certain types of emails, such as emails using alternative email addresses, emails sent to distribution lists, emails received as blind carbon copies, encrypted emails and “cloud” email (emails sent through third-party systems). As a result of these failures, emails sent to and from hundreds of employees and associated persons were not retained; and because the emails were not retained, they were not subject to supervisory review.

In addition, four of the firms failed to review millions of emails that the firms’ email review software had flagged for supervisory review. At various times between January 2005 and May 2011, nearly six million emails flagged for review went unreviewed by supervisory principals because the email review software was not properly configured.

In concluding [the settlement](#), the firms neither admitted nor denied the charges, but consented to the entry of FINRA’s findings. FINRA found that the firms violated the recordkeeping provisions of the federal securities laws and FINRA rules, and supervisory requirements under FINRA rules.

FINRA also ordered the firms to conduct a comprehensive review of their systems for the capture, retention and review of email, and to subsequently certify that they have established procedures reasonably designed to address and correct the violations.

FINRA’s investigation was conducted by the Departments of Enforcement and Member Regulation.

FINRA Hearing Panel Dismisses Two of Three Causes of Action in Complaint Against Charles Schwab & Company

Panel Orders Schwab to Pay \$500,000 Fine and Correct Language in Account-Opening Documents

The Financial Industry Regulatory Authority (FINRA) announced that a FINRA hearing panel has [dismissed two of three causes](#) in a February 2012 complaint against Charles Schwab & Company. The panel concluded that the amended language used in Schwab's customer agreements to prohibit participation in judicial class actions does violate FINRA rules, but that FINRA may not enforce those rules because they are in conflict with the Federal Arbitration Act (FAA).

In the third cause of action, the panel found that Schwab violated FINRA rules by attempting to limit the powers of FINRA arbitrators to consolidate individual claims in arbitration. The panel further concluded that the FAA does not bar enforcement of FINRA's rules regarding the powers of arbitrators, because the FAA does not dictate how an arbitration forum should be governed and operated, or prohibit the consolidation of individual claims. The panel ordered Schwab to take corrective action, including removing violative language, and imposed a fine of \$500,000.

In its complaint, FINRA's Enforcement Department had charged Schwab with violating FINRA rules concerning language or conditions that firms may place in customer agreements when Schwab amended its customer account agreement to include a provision requiring customers to waive their rights to bring or participate in class actions against the firm. The agreement also included a provision requiring customers to agree that arbitrators in arbitration proceedings would not have the authority to consolidate more than one party's claims.

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

FINRA's Department of Enforcement appealed the decision to the NAC.