

Disciplinary and Other FINRA Actions

Firms Fined, Individuals Sanctioned

Brookstone Securities, Inc. (CRD® #13366, Lakeland, Florida), David William Locy (CRD #4682865, Registered Principal, Overland Park, Kansas), Mark Mather Mercier (CRD #1884246, Registered Principal, Lutz, Florida) and Antony Lee Turbeville (CRD #1721014, Registered Principal, Lakeland, Florida) submitted Offers of Settlement in which the firm was censured and fined \$200,000; Locy was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for three months, Mercier was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for three months, and Turbeville was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for three months. Mercier's fine must be paid either immediately upon his reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that registered representatives, while associated with the firm, made misrepresentations or omissions of material fact to purchasers of unsecured bridge notes and warrants to purchase common stock of a successor company. The findings stated that the registered representatives guaranteed customers that they would receive back their principal investment plus returns, failed to inform investors of any risks associated with the investments and did not discuss the risks outlined in the private placement memorandum (PPM) that could result in them losing their entire investment. The registered representatives had no reasonable basis for the guarantees given the description of the placement agent's limited role in the PPM. The findings further stated that the registered representatives provided unwarranted price predictions to customers regarding the future price of common stock for which the warrants would be exchangeable and guaranteed the payment at maturity of promissory notes, which led customers to believe that funds raised by the sale of the anticipated private placement would be held in escrow for redemption of the promissory notes. The findings also stated that the firm, acting through a registered representative, made misrepresentations and/or omissions of material fact to customers in connection with the sale of the private placement of firm units consisting of Class B common stock and warrants to purchase Class A common stock; the PPM stated that the investment was speculative, involving a high degree of risk and was only suitable for persons who could risk losing their entire investment. The findings also included that the representative represented to customers that he would invest their funds in another private placement and in direct contradiction, invested the funds in the firm private placement.

Reported for November 2011

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

FINRA found that the representatives recommended and effected the sale of these securities without having a reasonable basis to believe that the transactions were suitable given the customers' financial circumstances and conditions, and their investment objectives. FINRA also found that the representative recommended customers use margin in their accounts, which was unsuitable given their risk tolerance and investment objectives, and he exercised discretion without prior written authorization in customers' accounts. In addition, FINRA determined that the firm, acting through Locy, its chief operating officer (COO) and president, failed to reasonably supervise the registered representative and failed to follow up on "red flags" that should have alerted him to the need to investigate the representative's sales practices and determine whether trading restrictions, heightened supervision or discipline were warranted. Moreover, FINRA found that despite numerous red flags, the firm took no steps to contact customers or place the representative on heightened supervision, although it later placed limits only on the representative's use of margin. The firm eventually suspended his trading authority after additional large margin calls, and Locy failed to ensure that the representative was making accurate representations and suitable recommendations. Furthermore, FINRA found that Turbeville, the firm's chief executive officer (CEO), and Locy delegated responsibility to Mercier, the firm's chief compliance officer (CCO), to conduct due diligence on a company and were aware of red flags regarding its offering but did not take steps to investigate. The findings also stated that the firm, acting through Turbeville, Locy and Mercier, failed to establish, maintain and enforce supervisory procedures reasonably designed to prevent violations of NASD Rule 2310 regarding suitability; under the firm's written supervisory procedures (WSPs), Mercier was responsible for ensuring the offering complied with due diligence requirements but performed only a superficial review and failed to complete the steps required by the WSPs; Locy never evaluated the company's financial situation and was unsure if a certified public accountant (CPA) audited the financials, and no one visited the company's facility. The findings also included that neither Turbeville nor Locy took any steps to ensure Mercier had completed the due diligence process.

FINRA found that Turbeville and Locy created the firm's deficient supervisory system; the firm's procedures were inadequate to prevent and detect unsuitable recommendations resulting from excessive trading, excessive use of margin and over-concentration; principals did not review trades or correspondence; and the firm's new account application process was flawed because a reviewing principal was unable to obtain an accurate picture of customers' financial status, investment objectives and investment history when reviewing a transaction for suitability. FINRA also found that the firm's procedures failed to identify specific reports that its compliance department was to review and did not provide guidance on the actions or analysis that should occur in response to the reports; Turbeville and Locy knew, or should have known, of the compliance department's limited reviews, but neither of them took steps to address the inadequate system.

Mercier's suspension is in effect from October 3, 2011, through January 2, 2012. Locy's and Turbeville's suspensions are in effect from October 17, 2011, through January 16, 2012. ([FINRA Case #2009017275301](#))

J.P. Turner & Company, LLC (CRD #43177, Atlanta, Georgia) and James Edward McGrath (CRD #1582846, Registered Principal, Brick, New Jersey) submitted an Offer of Settlement in which the firm was censured and fined \$20,000. McGrath was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for 10 business days. Without admitting or denying the allegations, the firm and McGrath consented to the described sanctions and to the entry of findings that McGrath failed to reasonably supervise a registered representative who recommended and effected unsuitable and excessive trading in a customer's account. The findings stated that McGrath had supervisory responsibility over the registered representative and was responsible for reviewing his securities recommendations to ensure compliance with member firm procedures and applicable securities rules. The findings also stated that McGrath failed to reasonably supervise the registered representative by, among other things, failing to enforce firm account procedures and failing to respond to red flags regarding the registered representative's trading activity in the customer's account. The findings also included that the firm's supervisory procedures required McGrath to review account transactions, such as the registered representative's recommended transactions in the customer's account, on a daily and monthly basis for, among other things, general suitability, excessive trading and churning, in-and-out trading and excessive commissions and fees; the firm's procedures also required that McGrath review all exception reports related to the individuals who he supervised and take appropriate measures as necessary.

FINRA found that through these required reviews, McGrath was aware of red flags of possible misconduct in the customer's account, including frequent short-term trading, excessive commission and margin charges, high turnover and cost-to-equity ratios, and substantial trading losses, and the account frequently appeared on the firm's exception reports; McGrath failed to reasonably respond to and address the red flags in the customer's account. FINRA also found that McGrath never spoke with the customer despite the fact that the firm's compliance department sent several emails to McGrath advising him that the customer's account needed customer contact as required by the firm's WSPs; McGrath never spoke with the customer directly to confirm that he was aware of the activity level in his account or that such activity was appropriate in light of his financial circumstances and investment objectives. In addition, FINRA determined that McGrath failed to ensure that an Active Account Suitability Supplement and Questionnaire was sent to the customer within the time frame the firm's WSPs required. Moreover, FINRA found that months after the registered representative began trading in the customer's account, McGrath instructed the registered representative to curtail the short-term trading in the account and hold positions for a longer period; that was the only time McGrath spoke to the registered representative about the customer's account. Furthermore, FINRA found that McGrath reduced the registered representative's commissions for purchases in the customer's account, but this measure did not have the desired impact; the registered representative actually increased the number of purchases and frequency of short-term trading to offset the effects of the commission reduction until the customer closed the

account after suffering losses of approximately \$120,000. The findings also stated that McGrath failed to take any action against the registered representative based on his failure to comply with his instructions; among other things, McGrath never restricted the trading in the customer's account, spoke to the customer, placed the registered representative on heightened supervision, recommended disciplinary measures against him to address these concerns, or spoke with the firm's compliance department regarding the supervision of the registered representative. The findings also included that the firm allowed the registered representative to effect transactions in the customer's account for months without obtaining a signed and completed new account form from the customer, and failed to enforce its review of active accounts as the WSPs required. FINRA found that the firm failed to send a required suitability questionnaire to the customer until almost a year after the account had been opened and suffered significant losses, failed to qualify his account as suitable for active trading and failed to perform a timely quarterly review of the account.

McGrath's suspension was in effect from October 3, 2011, through October 14, 2011.
([FINRA Case #2009016612701](#))

Firms Fined

Allen & Company LLC (CRD #1042, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$16,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to the Order Audit Trail System (OATS™) that contained inaccurate, incomplete or improperly formatted data; the firm submitted numerous execution reports that had been routed away from the firm for execution. The findings stated that the firm transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data. ([FINRA Case #2008013446801](#))

Beta Capital Management, L.P. (CRD #38964, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$450,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that for at least two years, it failed to maintain an order entry system reasonably designed to prevent an improper post-execution allocation of trades. The findings stated that the firm's third-party order entry system permitted trades to be entered into the system without assigning an account to the trades, and the firm's operations department sometimes allocated trades in the system based on written order tickets provided to it well after the trades had been entered, at times after the close of trading and thus after securities may have increased or decreased in value. The findings also stated that the firm did not require its registered representatives to provide order tickets to its operations department as soon as trades were entered into the system and allowed order tickets to be completed and turned into the operations department later in

the day. The findings also included that the firm facilitated the improper post-execution allocation of trades at the direction, and to the benefit, of a customer; the customer directed and controlled two accounts at the firm, one account of which the customer was the beneficial owner and a second, institutional account.

FINRA found that throughout the day, the customer called in orders to the firm's trading desk; the firm entered the trades into its third-party electronic order entry system, at times, without assigning the trades to one of the accounts. FINRA also found that in certain instances, near or after the close of trading, after the securities had increased or decreased in value, the firm assigned the trades to one of the accounts based on the customer's instructions; in many instances, more profitable and more favorably priced trades were allocated to the account for the customer's personal benefit, while less profitable and less favorably priced trades were allocated to the institutional account. In addition, FINRA determined that in trading the same equities over a two-year period, the account beneficial to the owner realized a \$586,220 profit and the institutional account realized a \$50,789 profit. ([FINRA Case #2010024016701](#))

BGB Securities, Inc. (CRD #36716, Arlington, Virginia) 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 the firm, acting through a research analyst, published research reports on subject companies that failed to disclose that the research analyst or a member of his household had a financial interest in the securities of the subject companies. The findings stated that the firm published a research report in which it failed to disclose that it had received trading commissions from the subject company in the past 12 months. The findings also stated that the firm failed to detect and prevent personal trading by a research analyst associated with the firm, and failed to disclose ownership and material conflicts of interest in research reports; the firm failed to adopt and implement WSPs and failed to establish and maintain a supervisory system, and establish, maintain and enforce WSPs reasonably designed to achieve compliance with applicable rules and regulations regarding its research reports and the supervision of its research analysts. The findings also included that the firm failed to prepare accurate order tickets for any of its corporate bond transactions and the order tickets, which were prepared after the transactions were executed, reflected execution times that were later than the actual execution time. FINRA found that the firm failed to accurately report transactions to the Trade Reporting and Compliance Engine™ (TRACE™), double-reported transactions and reported transactions with execution times that were later than the actual execution time. ([FINRA Case #2010021055301](#))

BNY ConvergeEx Execution Solutions LLC (CRD #35693, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$52,500 and required to revise its WSPs regarding SEC Rules 611(a)(1) and 611(c) of Securities Exchange Act Regulation NMS, trade reporting, accuracy of OATS time clocks, and books

and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to OATS; transmitted ROEs to OATS that it was not required to report; transmitted ROEs to OATS that contained inaccurate, incomplete or improperly formatted data related to the identification of the parent order and timestamps; and transmitted Execution or Combined Order/Execution Reports to OATS that the OATS system was unable to link to the related trade reports in an NASD trade reporting system due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm transmitted reports to OATS that contained inaccurate special handling codes, inaccurate order route or order entry times, and incomplete data. The findings also stated that the firm failed to maintain and preserve a record of route reports transmitted to OATS. The findings also included that the firm executed short sale transactions and failed to report each of these transactions to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) with a short sale modifier. FINRA found that the firm failed to show the correct order receipt time, order entry time, execution time or cancellation time, or failed to show the terms and conditions on brokerage order memoranda. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with SEC Rules 611(a)(1) and 611(c) of Regulation NMS, and did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing adequate WSPs in trade reporting, accuracy of OATS time clocks, and books and records. ([FINRA Case #2007009278701](#))

BTIG, LLC (CRD #122225, San Francisco, California) 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 inter-dealer transactions in TRACE-eligible securities to TRACE, and failed to report these transactions to TRACE within 15 minutes of the execution time. The findings stated that the firm failed to show the correct execution time on the memorandum of these transactions for the firm's account it executed with another broker or dealer. ([FINRA Case #2009020188401](#))

Coastal Securities, Inc. (CRD #27834, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and ordered to pay \$9,847.50 in restitution, plus interest, to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it charged excessive markups in municipal bond sales transactions; the bonds at issue in this matter were thinly traded. The findings stated that the markups the firm charged in these transactions were not fair and reasonable, taking into consideration all relevant factors, including the firm's best judgment as to the fair market value of the securities at the time of the transactions and of any securities exchanged or traded in connection with the transactions, the fact that the firm is entitled to a profit, and the total dollar amount of the transactions. ([FINRA Case #2010020844501](#))

CP Capital Securities, Inc. (CRD #15029, Miami, Florida) 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 allowed persons to act in registered capacities without being registered and qualified in such capacities. The findings stated that one individual, who held the title of operations manager, signed off as the registered representative on check and wire funds request forms and sometimes was the only member firm employee who signed the form. The findings also stated that another unlicensed individual signed checks and contracts on the firm's behalf and signed off as the registered representative on one check and wire funds request form; this individual was listed in the firm's WSPs as the secondary anti-money laundering (AML) compliance officer (AMLCO), and held the titles of vice president and operations manager. The findings also included that neither individual ever held any securities licenses while associated with the firm. FINRA found that the firm conducted a securities business while below its minimum net capital requirement. FINRA also found that the firm maintained investment advisor services and managed accounts that were fee-based, and despite the fact that a significant portion of the firm's revenues were derived from the management fees, the firm did not establish and implement any WSPs regarding managed accounts. ([FINRA Case #2009015970101](#))

FCS Securities and Dale Edward Kleinser (CRD #40177, New York, New York) were fined \$5,000, jointly and severally, and the firm was suspended for four months in all capacities. The four-month suspension shall convert to a bar if at the end of the suspension the firm has not filed audited financial reports. The SEC affirmed the sanctions following an appeal of the National Adjudicatory Council (NAC) decision. The sanctions were based on findings that the firm, acting through its owner, failed to file audited annual reports for two years.

The firm filed a motion for reconsideration with the SEC, which was denied. The firm filed an appeal to the United States Court of Appeals for the 2nd Circuit and the sanctions are not in effect pending the appeal. ([FINRA Case #2007010306901](#))

Electronic Brokerage Systems, LLC (CRD #104031, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit numerous ROEs to OATS it was required to transmit on many business days. The findings stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its WSPs concerning OATS reporting requirements. ([FINRA Case #2009016990401](#))

Euro Pacific Capital, Inc. (CRD #8361, Westport, Connecticut) 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 timely report quarterly statistical information concerning most of the customer complaints it received to FINRA's then 3070 System.

The findings stated that the firm failed to maintain complete complaint files and did not enforce its WSPs pertaining to customer complaint reporting, and the Uniform Applications for Securities Industry Registration or Transfer (Forms U4) for those representatives who were the subject of the complaints were not timely updated. The findings also stated that the firm failed to enforce its written supervisory control policies and procedures that would test and verify that the firm's supervisory procedures were reasonably designed with respect to the firm's activities to achieve compliance with applicable securities laws, regulations and self-regulatory organization (SRO) rules; the firm's annual NASD Rule 3012 report for one year did not comport with these procedures, and the firm failed to implement its supervisory control procedures to review its producing managers' customer account activity. The findings also included that the firm prepared a deficient NASD Rule 3013 certification as it did not document the firm's processes for establishing, maintaining, reviewing, testing and modifying compliance policies reasonably designed to achieve compliance with applicable securities laws, regulations and SRO rules.

FINRA found that the firm failed to timely file a Financial and Operational Combined Uniform Single (FOCUS) Report and Schedule I Reports. FINRA also found that the firm failed to preserve, in an easily accessible place, electronic emails for one of its representatives for almost a year. In addition, FINRA determined that the firm offered and sold precious metal-related products through an entity, but failed to develop, implement and enforce adequate AML procedures related to the business; the firm did not establish and implement policies and procedures reasonably designed to identify, monitor for and, where appropriate, file suspicious activity reports (SARs) for its business processed through its k(2)(i) account. Moreover, FINRA found that the firm failed to implement and enforce its AML procedures and policies related to its fully disclosed business through its then-clearing firm; aspects of its AML program that the firm failed to implement and enforce included monitoring accounts for suspicious activity, monitoring employee conduct and accounts, red flags and control/restricted securities. Furthermore, FINRA found that the firm's procedures provided that monitoring would be conducted by means of exception reports for unusual size, volume, pattern or type of transactions; the firm did not consistently utilize exception reports made available by its then-clearing firm, and the firm did not evidence its review of the reports and did not note findings and appropriate follow-up actions, if any, that were taken. When notified by its clearing firm of possible suspect activity, on at least several occasions, the firm did not promptly and/or fully respond to the clearing firm's inquiries. The findings also stated that such review was required by the procedures for employee accounts, but the firm did not maintain any evidence that such inquiries for employee accounts were conducted. The findings also included that the firm's procedures contained a non-exclusive list of numerous possible red flags that could signal possible money laundering, but the firm did not take consistent steps to ensure the review of red flags in accounts.

FINRA found that the firm's AML procedures reference that SAR-SF filings are required under the Bank Secrecy Act (BSA) for any account activity involving \$5,000 or more when

the firm knows, suspects, or has reason to suspect that the transaction involves illegal activity or is designed to evade BSA regulation requirements or involves the use of the firm to facilitate criminal activity; because the firm was not consistently reviewing exception reports or red flags, it could not consistently identify and evaluate circumstances that might warrant a SAR-SF filing. FINRA also found that the firm failed to establish and implement risk-based customer identification program (CIP) procedures appropriate to the firm's size and type of business; and the firm failed to provide ongoing training to appropriate personnel regarding the use of its internal monitoring tools as AML program required. In addition, FINRA determined that certain pages of the firm's website contained statements that did not comport with standards in NASD Rule 2210; FINRA previously identified these Web pages as being in violation of NASD Rule 2210, but the firm failed to remove such pages from its website. ([FINRA Case #2009016300801](#))

Fifth Third Securities, Inc. (CRD #628, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$77,500 and ordered to pay \$18,822.07, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction, and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. The findings stated that the firm failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of trade time to an RTRS Portal, and failed to report the correct trade time to the RTRS in municipal securities transactions reports. The findings also stated that the firm failed to show the correct execution time on the memorandum of transactions in municipal securities executed with another broker or dealer. ([FINRA Case #2009018103501](#))

Guggenheim Securities, LLC (CRD #40638, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$13,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal, failed to report the correct trade time to the RTRS in transactions in municipal securities, and failed to show the correct entry time on the trade memorandum for transactions in municipal securities. The findings stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its WSPs concerning trade reporting of municipal securities to the RTRS. ([FINRA Case #2009019435301](#))

Howe Barnes Hoefer & Arnett, Inc. (CRD #2240, Chicago, Illinois) 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 transmitted reports to OATS that contained incorrect report and account type information. The findings stated that the firm failed to properly disclose all pertinent information to customers on the customer confirmation; the firm failed to disclose a commission equivalent or markup/markdown on some customer confirmations and failed to disclose the correct capacity on other customer confirmations. ([FINRA Case #2008016156801](#))

HSBC Securities (USA) Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the FNTRF the correct symbol indicating whether transactions for reportable securities were buys, sells, sells short, or crosses. ([FINRA Case #2009020565101](#))

Legent Clearing LLC, dba Legent Clearing (CRD #117176, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$200,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it cleared transactions in accounts a former FINRA member firm introduced, including a corporate account the former member firm's customer, an entity, maintained. The findings stated that the trading activity in the entity's account generated multiple margin calls. The findings also stated that through a course of conduct FINRA later determined involved improper agreements, misleading statements and omissions to disclose material information by the entity and the former member firm, the entity acquired control over assets in qualified and non-qualified accounts customers of another former FINRA member firm previously owned and controlled. The findings also included that those assets, including assets previously held in qualified accounts, were transferred into the entity's account held at the firm, where they secured margin debits resulting from options trading and short-selling.

FINRA found that the firm provided material assistance to the former member firm and the entity in connection with their efforts to obtain additional assets in the entity's account in order to support continued trading on margin. FINRA also found that although there were relevant facts that the former member firm and the entity withheld from, or misrepresented to, the firm, the firm was, or should have been, aware of other facts and circumstances that should have caused it to decline to take, or to inquire further before taking, certain actions the former member firm and its customer requested, which facilitated the asset transfers and placed the other former member firm customers at risk of loss; more specifically, two senior managers of the firm, who are principals, had access to facts and circumstances that, at the very least, should have prompted them to inquire further regarding the nature of the assets being transferred. In addition, FINRA determined

that as a result of trading in the entity's account after it was transferred from the firm to another broker-dealer, some customer assets were liquidated to meet margin calls, assets that would not have been available for liquidation but for their improper transfer into the entity's account while it was held at the firm. ([FINRA Case #2008013543501](#))

Lone Star Securities, Inc. (CRD #20452, Addison, 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 failed to provide the required financial statements for oil and gas private placement offerings to non-accredited investors who invested in the offerings, and negligently failed to disclose material information to customers who invested in some of the oil and gas private placement offerings. The findings stated that the firm failed to disclose certain state regulatory orders against the sole owner of some of the offerings, a portion of the expenses of one firm were paid by the issuer of an offering, and an arbitration award of \$526,186 against the controlling shareholder of the general partner of another offering. The findings also stated that the firm conducted a securities business while failing to maintain its required minimum net capital, which resulted in inaccurate books and records and a net capital deficiency. The findings also included that the firm filed an SEC Rule 17a-11 notification reporting the net capital deficiency; the notifications to FINRA and the SEC were not timely. ([FINRA Case #2009016271001](#))

M Holdings Securities, Inc. (CRD #43285, Portland, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$90,000, ordered to pay \$30,963.26, plus interest, in restitution to customers, and required to revise its WSPs regarding fair pricing reviews of fixed income transactions and qualifying supervisory personnel. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold corporate bonds to a customer and failed to sell such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit; in each instance, the same registered representative who was employed in a branch office sold the bonds. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules, and its WSPs failed to provide for minimum requirements for adequate WSPs in fair pricing reviews of fixed income transactions and qualifying supervisory personnel. ([FINRA Case #2006006455001](#))

Network 1 Financial Securities Inc. (CRD #13577, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported its capacity as agent rather than principal for proprietary over-the-counter (OTCTM) equity securities transactions it executed involving the same security. The findings stated that the firm executed short sale

transactions involving the same security but failed to report some of those transactions as short sales. The findings also stated that in each of those instances, the firm failed to mark the trade as a short sale on the corresponding order ticket. ([FINRA Case #2010020986801](#))

Newbridge Securities Corporation (CRD #104065, Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide material information to customers by negligently permitting its registered representatives to sell securities in private placement offerings to customers using private placement memoranda that omitted material facts. ([FINRA Case #2010021106101](#))

Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit ROEs concerning orders to OATS for over two years. ([FINRA Case #2009016867701](#))

Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and ordered to pay \$1,849.33, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders fully and promptly, and in many of these transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. ([FINRA Case #2009017657001](#))

SG Americas Securities, LLC (CRD #128351, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$70,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it improperly reported Execution or Combined Order/Execution Reports to OATS with a reporting exception code of “M”, improperly reported Execution or Combined Order/Execution Reports to OATS instead of required Route Reports, improperly reported Execution or Combined Order/Execution Reports to OATS it was not required to report and erroneously reported Combined Order/Execution Reports it was not required to report. The findings stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FNTRF, failed to designate some last sale reports as late through the FNTRF, and incorrectly designated last sale reports of transactions in designated securities as “.PRP” to the FNTRF. The findings also stated that the firm failed to submit to the NASDAQ Market Center (NMC), for the offsetting “riskless” portion of “riskless” principal transaction(s) in designated securities, either a clearing-only report with a capacity indicator of “riskless

principal,” or a non-tape, non-clearing report with a capacity indicator of “riskless principal.” The findings also included that the firm failed to report the correct execution time to the FNTRF in last sale reports of transactions in designated securities. FINRA found that the firm failed to report to the NMC last sale reports of transactions in designated securities. ([FINRA Case #200700888401](#))

Sterne, Agee & Leach, Inc. (CRD #791, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained an incorrect order receipt time and failed to submit desk reports to OATS it was required to submit. The findings stated that the firm failed to provide the special handling code on some OATS reportable orders and transmitted orders to OATS it was not required to submit. ([FINRA Case #2008014989301](#))

UBS Financial Services Inc. (CRD #8174, Weehawken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$300,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to reasonably supervise the cross-trading of municipal bonds because it lacked adequate policies and procedures to monitor the trades. The findings stated that an individual exercised discretion to engage in short-term trading of municipal bonds for customer accounts, and many of these trades were suspicious since they resulted from cross-trades of municipal bonds between the individual’s customer accounts, where the individual solicited both sides of the trades; the individual was a high-producing broker whose high net-worth clients often gave discretionary trading authority. The findings also stated that although the firm identified the individual’s trading as requiring further investigation, it did not take sufficient steps to address the red flags. The findings also included that the firm provided no written or verbal guidance regarding what criteria should be utilized to determine whether a cross trade is beneficial to both clients, or who should make this determination; the standard to determine whether a cross-trade could be deemed beneficial to customers on both sides of a respective trade was unclear.

FINRA found that the firm conducted annual audits on the firm’s municipal bond trading desks and deficiencies in supervision of municipal cross-trades were identified. FINRA also found that after the deficiencies in supervision of municipal cross-trades were identified through the annual audit, the firm’s compliance department conducted reviews of the individual’s cross-trading and created spreadsheets identifying municipal bond cross trades where both sides of the trades were marked as solicited. In addition, FINRA determined that these reviews were provided to branch management for their review, and the branch managers failed to adequately review these cross-trades for appropriateness. Moreover, FINRA found that the firm’s compliance department identified the individual’s trading as requiring further investigation and generated multiple exception reports indicating a possible pattern of improper short-term trading for multiple customer accounts, but the

firm did not take sufficient steps to address these red flags; because of these failures, the individual was able to engage in a pattern of excessive and unsuitable cross-trading. Furthermore, FINRA found that although the individual and the firm earned transaction compensation on these trades, the transactions resulted in losses to certain customers. ([FINRA Case #2007009401302](#))

UBS Financial Services Inc. (CRD #8174, Weehawken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report block transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. The findings stated that the firm failed to report S1 transactions in TRACE-eligible securities and TRACE-eligible debt securities to TRACE within 15 minutes of the execution time. ([FINRA Case #2009019559301](#))

The Williams Capital Group, L.P. (CRD #35149, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$29,000 and required to revise its WSPs regarding municipal securities transaction reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal. The findings stated that the firm improperly reported to the RTRS certain transactions effected in municipal securities that had been previously reported or when the inter-dealer deliveries were “step outs” and thus were not inter-dealer transactions reportable to the RTRS. The findings also stated that the firm failed to report the correct trade time to the RTRS in municipal securities transactions reports. The findings also included that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and rules of the Municipal Securities Rulemaking Board (MSRB) concerning municipal securities transaction reporting. FINRA found that the firm failed to report the correct trade time to the RTRS in municipal securities transactions reports and, as a result, the firm failed to report information about such transactions within 15 minutes of trade time to an RTRS Portal. ([FINRA Case #2010022686801](#))

The Winchester Group, Inc. (CRD #27704, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to comply with MSRB Rules G-8 and G-14 in connection with certain municipal securities transactions that were executed away from the clearing firm. The findings stated that the firm failed to capture and record accurate execution times on municipal securities transactions, and reported municipal securities transactions to the RTRS more than 15 minutes after the trade time. ([FINRA Case #2010021245201](#))

Individuals Barred or Suspended

John Patrick Arena (CRD #4920976, Registered Representative, Forest Hills, 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 days. The fine must be paid either immediately upon Arena'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, Arena consented to the described sanctions and to the entry of findings that he failed to timely update his Form U4 to disclose material information.

The suspension is in effect from October 17, 2011, through November 15, 2011. ([FINRA Case #2009020619101](#))

Eric Adam Axel (CRD #4073828, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. Without admitting or denying the allegations, Axel consented to the described sanctions and to the entry of findings that while associated with a member firm, Axel, through a company in which he held an ownership interest and co-managed, borrowed \$200,000 from two customers in three transactions. The first loan for \$50,000, which Axel later repaid, was contrary to Axel's firm's written policy that prohibited individuals from borrowing money from firm customers, and Axel did not seek or receive his firm's approval for the loan he received from the customer. The findings also stated that prior to receiving the loan, the firm's CCO explicitly stated that Axel did not qualify to raise money with his customers. The findings also included that Axel left the firm and became associated with another member firm; Axel, through his company, solicited another \$50,000 from the first customer, who had now transferred his account to the firm where Axel remained his account representative. Axel did not repay the funds he borrowed in the second loan. Finally, Axel, through his company, borrowed \$100,000 from a second customer. The customer has received partial payment of the loan. Axel accepted these two loans contrary to his firm's written policy that prohibited registered persons from borrowing money from a customer, Axel had not asked for, nor had received, the firm's permission to borrow these funds. FINRA found that Axel provided false information to his second member firm, when he responded that he never loaned money to, or borrowed money from, a customer, or arranged for a third party to loan or borrow from a customer on a compliance certification.

The suspension is in effect from October 17, 2011, through October 16, 2012. ([FINRA Case #2007010889202](#))

Virginia Bussard Barausky (CRD #2469945, Registered Principal, Tampa, Florida) 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 60 days. Without admitting or denying the findings, Barausky consented to the described sanctions and to the entry of

findings that she improperly created an answer key for a state insurance long-term care (LTC) continuing education (CE) examination and improperly distributed the answer key to other registered representatives of the member firm. The findings stated that Barausky forwarded another answer key to wholesalers within the firm.

The suspension is in effect from October 3, 2011, through December 1, 2011. ([FINRA Case #2009021029622](#))

Brian Wade Boppre (CRD #2778187, Registered Principal, Minot, North Dakota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for six months. The fine must be paid either immediately upon Boppre'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, Boppre consented to the described sanctions and to the entry of findings that he was a member of his firm's new product committee, which was responsible for conducting due diligence and approving new products at the firm. The findings stated that Boppre knew of an issuer's failure to make payments to its investors and was also aware of other indications of the issuer's problems but approved the offering as a product available for his firm's brokers to sell to their customers; Boppre also suspended the offering sales and then reopened the sales after further discussions with issuer executives. The findings also stated that Boppre allowed his firm's brokers to continue selling the offering despite the issuer's ongoing failure to make principal and interest payments, and despite other red flags concerning the issuer's problems. The findings also included that Boppre, acting on his firm's behalf, failed to conduct adequate due diligence of the offering before allowing firm brokers to sell this security; without adequate due diligence, the firm could not identify and understand the inherent risks of the offering and therefore could not have a reasonable basis to sell it. By not conducting adequate due diligence, Boppre failed to reasonably supervise firm brokers' sales of the offering.

The suspension is in effect from September 19, 2011, through March 18, 2012. ([FINRA Case #2009019125904](#))

Nathan Eugene Calhoun (CRD #716257, Registered Representative, Little Rock, Arkansas) 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, Calhoun consented to the described sanction and to the entry of findings that FINRA received investors' complaints alleging that Calhoun had solicited them to invest in a foreign currency exchange trading (FOREX) program a foreign entity operated; with his assistance, the investors invested a total of \$150,000 in the FOREX program. Ultimately, the entity's FOREX scheme was the subject of federal actions by both the SEC and the Commodity Futures Trading Commission (CFTC). The findings stated that Calhoun solicited the investors to invest in the entity while he was employed as a registered representative

with his member firm; Calhoun's participation in the private securities transactions was outside the regular course or scope of his employment with his firm. The findings also stated that Calhoun failed to provide prior written notice of his role in the transactions to his firm and did not receive the firm's written approval or acknowledgement concerning his participation in the private securities transactions. The findings also included that Calhoun failed to appear for a FINRA on-the-record interview. ([FINRA Case #2011026223401](#))

Steven Robert Carestia (CRD #4733772, Registered Representative, Hackensack, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Carestia'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, Carestia consented to the described sanctions and to the entry of findings that he borrowed a total of \$200,000 from customers of his member firm without giving written notice or obtaining the written approvals of his firm manager or the firm's compliance department before obtaining the loans from the customers. The findings stated that Carestia's firm's written procedures permitted registered representatives to enter into loan arrangements under certain circumstances but required that such arrangements be pre-approved in writing. The findings also stated that Carestia has repaid one customer in full, and the other customer has executed an affidavit stating that Carestia partially repaid the loan and that the customer forgives the balance of the loan including any accrued interest.

The suspension is in effect from October 3, 2011, through December 1, 2011. ([FINRA Case #2010025194901](#))

Carlos Roberto Chavez (CRD #3103298, Registered Representative, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Chavez' 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, Chavez consented to the described sanctions and to the entry of findings that he failed to respond timely to FINRA requests for information and documents.

The suspension is in effect from October 3, 2011, through April 2, 2012. ([FINRA Case #2010024503002](#))

Jaime Xavier Coronado (CRD #4001702, Registered Representative, Friendswood, 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, Coronado consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and documents. ([FINRA Case #2010023618301](#))

Joanne Lynn Cramer (CRD #2321956, Registered Principal, Burlington, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000, suspended from association with any FINRA member in any capacity for one month, and suspended from association with any FINRA member in a Financial and Operations Principal (FINOP) capacity for six months. The suspensions shall run consecutively. The fine must be paid either immediately upon Cramer's reassociation with a FINRA member firm following the suspensions, 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, Cramer consented to the described sanctions and to the entry of findings that she conducted transactions on behalf of the firm and its parent company after these entities terminated her as an employee and officer. The findings stated that after receiving the termination notice, Cramer sent a fax on firm letterhead instructing the firm's bank to transfer \$3,075 from the firm's account to the firm's parent company's operating account. The bank processed the transaction as a journal entry according to Cramer's instructions. Cramer sent the fax and signed it as president of the firm and its parent company although she never held the office of president of either the firm or its parent company. The findings also stated that the journal entry was necessary to cover a \$4,000 check payable to Cramer from the parent company's operating account, which she wrote and presented for payment. The findings also included that at the time of Cramer's termination, she was in possession of another check payable to her in the amount of \$65,679.88 written against the account of the parent company's defined-benefit plan; this check was dated for a certain date before her termination, but Cramer did not present it for payment until a few days after her termination. FINRA found that Cramer sent an email to a representative of the firm's clearing firm requesting that an inactivity fee be reversed; Cramer closed the email with her name, the firm's name/the firm's parent company's name, and made no reference to the fact that she no longer had a position with either the firm or its parent company.

The suspension in any capacity is in effect from October 3, 2011, through November 2, 2012; the suspension in a FINOP capacity is in effect from November 3, 2011, through May 2, 2012. ([FINRA Case #2009020729101](#))

Steven Lloyd Cronin (CRD #2146467, Registered Representative, Great Neck, 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 60 days. The fine must be paid either immediately upon Cronin's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Cronin consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose information.

The suspension is in effect from September 19, 2011, through November 17, 2011. ([FINRA Case #2009020970901](#))

Corey Vernon Darling (CRD #4005873, Registered Representative, Anacortes, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 18 months. In light of Darling's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Darling consented to the described sanction and to the entry of findings that he engaged in outside business activity without providing written notice to his member firms; Darling formed and operated, as the managing member, a limited liability company for the purpose of securing and managing a commercial office building. The findings stated that Darling borrowed a total of \$218,484.28 from a few customers while he was associated with firms without receiving the required written pre-approval. The findings also stated that in a firm compliance questionnaire that asked whether Darling had a debt obligation to a non-institutional lender or person, Darling falsely answered "no" to that question.

The suspension is in effect from October 17, 2011, through April 16, 2013. ([FINRA Case #2009020307101](#))

Randall Bryan Edwards Sr. (CRD #2258337, Registered Representative, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Edwards consented to the described sanctions and to the entry of findings that he reallocated the funds in customers' variable annuities, which were all being held in a money market sub-account, to different sub-accounts without the customers' written authorization or his firm's acceptance of their accounts as discretionary. The findings stated that Edwards' member firm does not permit its registered representatives to exercise discretion in customer accounts.

The suspension was in effect from October 3, 2011, through October 14, 2011. ([FINRA Case #2009019863501](#))

Nathaniel Aaron Finkin (CRD #5596063, Registered Representative, Jonestown, 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, Finkin consented to the described sanction and to the entry of finding that his customer submitted an application to the firm for a mortgage, term loan, and line of credit, and as part of the application process, the firm retained an outside law firm to engage in negotiations on the term of the loans with the customer's counsel. The findings stated that Finkin sent fabricated emails to various individuals involved in the negotiations, including the customer's counsel, and each of the emails instructed the recipients to contact Finkin with any questions or concerns; Finkin sent the emails from his personal email account in a way that made the messages appear to the recipient to be from a paralegal at the outside law firm, and not Finkin. The findings also stated that Finkin failed to comply with a FINRA request for a document. ([FINRA Case #2009020132901](#))

Kevin Francis Garvey (CRD #2197846, Registered Principal, Bernardsville, New Jersey) submitted an Offer of Settlement in which he was fined \$35,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the allegations, Garvey consented to the described sanctions and to the entry of findings that as the supervisor of his member firm's securities lending desk, he permitted a non-registered individual associated with a non-registered finder firm to act in a capacity that required the non-registered individual and/or his firm to be registered as a broker dealer and caused his firm to pay the non-registered individual transaction-based compensation through the non-registered finder firm. The findings stated that Garvey regularly caused his firm to permit an unregistered natural person to negotiate, solicit and enter into stock borrow and loan transactions, which are duties customarily performed by a registered securities lending representative. The findings also included that Garvey performed the duties of a securities lending supervisor without being properly registered. FINRA found that Garvey consented and/or caused the continuation of the practice of paying finders on transactions with certain counterparties in which the finder had provided no service, and permitted individual traders to subjectively determine the cut-in transactions on which a finder was to be paid and the amount of the finder's compensation on those transactions even though the finder had not provided service on the transactions. FINRA also found that Garvey caused his firm to create and preserve inaccurate books and records on the stock loan activity on the securities lending desk, in that the firm's automated records of the cut-in transactions were inaccurate, in that they reflected that certain finders had participated in stock loan transactions when, in fact, they had not performed any function. In addition, FINRA determined that these false entries were transferred to its accounting records, which inaccurately indicated that payments were made to finders on the basis of services rendered when, in fact, no services had been rendered to justify the payments on the transactions indicated.

The suspension was in effect from September 19, 2011, through October 18, 2011. ([FINRA Case #2009018183501](#))

John William Grant (CRD #227512, Registered Principal, Escondido, 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, Grant consented to the described sanction and to the entry of findings that he executed unauthorized transactions in an account belonging to trustees of a family trust. The findings stated that the principal value of these unauthorized trades was \$1,088,561.12; the commissions amounted to \$11,517.90. The findings also stated that for 18 months prior to these unauthorized transactions, there was no activity in the account aside from interest and dividend credits and the ensuing automatic purchases of shares in a money market fund. ([FINRA Case #2011025940601](#))

Dennis Lee Grossman (CRD #870170, Registered Principal, Dix Hills, New York) submitted an Offer of Settlement in which he was fined \$75,000 and suspended from association with any FINRA member in any principal capacity for four months. The fine must be paid either immediately upon Grossman's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Grossman consented to the described sanctions and to the entry of findings that as the AMLCO and president of his member firm, he failed to demonstrate that he implemented and followed sufficient AML procedures to adequately detect and investigate potentially suspicious activity. The findings stated that Grossman did not consider the AML procedures and rules to be applicable to the type of accounts held at the firm and therefore did not adequately utilize, monitor or review for red flags listed in the firm's procedures. The findings also stated that in his daily review of trades executed at the firm and all outgoing cash journals and wires, Grossman did not identify any activity of unusual size, volume or pattern as an AML concern; the firm's registered representatives, who were also assigned responsibility for monitoring their own accounts, failed to report any suspicious activity to Grossman. The findings also included that until the SEC and/or FINRA alerted Grossman to red flags of suspicious conduct, Grossman did not file any SARs.

FINRA found that Grossman failed to implement adequate procedures reasonably designed to detect and cause the reporting of suspicious transactions and, even with those minimal procedures that he had in place at the firm, he still failed to adequately implement or enforce the firm's own AML program. FINRA also found that accounts were opened at the firm within a short period of each other that engaged in similar activity in many of the same penny stocks, and several red flags existed in connection with these accounts that should have triggered Grossman's obligations to undertake scrutiny of the accounts, as set out in the firm's procedures, including possibly filing a SAR; individuals associated with the accounts had prior disciplinary histories, including securities fraud and/or money laundering. In addition, FINRA determined that due to Grossman's failure to effectively identify and investigate suspicious activity, in many cases, he failed to identify transactions potentially meriting reporting through the filing of SARs. Moreover, FINRA found that Grossman failed to implement an adequate AML training program for appropriate personnel; the AML training conducted was not provided to all of the registered representatives at the firm. Furthermore, FINRA found that Grossman failed to establish and maintain a supervisory system at the firm to address the firm's responsibilities for determining whether customer securities were properly registered or exempt from registration under Section 5 of the Securities Act of 1933 (Securities Act) and, as a result, Grossman failed to take steps, including conducting a searching inquiry, to ascertain whether these securities were freely tradeable or subject to an exemption from registration and not in contravention of Section 5 of the Securities Act. The findings also stated that the firm did not have a system in place, written or unwritten, to determine whether customer securities were properly registered or exempt from registration under Section 5 of the

Securities Act; Grossman relied solely upon the clearing firm, assuming that if the stocks were permitted to be sold by the clearing firm, then his firm was compliant with Section 5 of the Securities Act. The findings also included that Grossman failed to designate a principal to test and verify the reasonableness of the firm's supervisory system, and failed to establish, maintain and enforce written supervisory control policies and procedures at the firm and failed to designate and specifically identify to FINRA at least one principal to test and verify that the firm's supervisory system was reasonable to establish, maintain and enforce a system of supervisory control policies and procedures.

FINRA found that the firm created a report, which was deficient in several areas, including in its details of the firm's system of supervisory controls, procedures for conducting tests and gaps analysis, and identities of responsible persons or departments for required tests and gaps analysis. FINRA also found that Grossman made annual CEO certifications, certifying that the firm had in place processes to establish, maintain, review, test and modify written compliance policies and WSPs to comply with applicable securities rules and registrations; the certifications were deficient in that they failed to include certain information, including whether the firm has in place processes to establish, maintain and review policies and procedures designed to achieve compliance with applicable laws and regulations and whether the firm has in place processes to modify such policies and procedures as business, regulatory and legislative events dictate. In addition, FINRA found that Grossman failed to ensure that the firm's heightened supervisory procedures placed on a registered representative were reasonably designed and implemented to address the conduct cited within SEC's allegations; the additional supervisory steps imposed by Grossman to be taken for the registered representative were no different than ordinary supervisory requirements. Moreover, FINRA found that there was a conflict of interest between the registered representative and the principal assigned to monitor the registered representative's actions at the firm; the principal had a financial interest in not reprimanding or otherwise hindering the registered representative's actions. Furthermore, FINRA found that Grossman was aware of this conflict, yet nonetheless assigned the principal to conduct heightened supervision over the registered representative. The findings also stated that the heightened supervisory procedures Grossman implemented did not contain any explanation of how the supervision was to be evidenced, and the firm failed to provide any evidence that heightened supervision was being conducted on the registered representative. The findings also included that Grossman entered into rebate arrangements with customers without maintaining the firm's required minimum net capital; Grossman caused the firm to engage in a securities business when the firm's net capital was below the required minimum and without establishing a reserve bank account or qualifying for an exemption. FINRA found that Grossman was required to perform monthly reserve computations and to make deposits into a special reserve bank account for the exclusive benefit of customers, but failed to do so.

The suspension is in effect from September 19, 2011, through January 18, 2012. ([FINRA Case #2008011672301](#))

Frank A. Gutta aka Fazel A. Gutta (CRD #1705545, Registered Representative, Plantation, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for two years. In light of Gutta's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Gutta consented to the described sanction and to the entry of findings that he formed a corporation for the business purpose of pooling funds to be used to finance investments in various small businesses, and he operated the company for more than four years without notice to his member firm. The findings stated that Gutta offered and sold company promissory notes to individuals, including some firm customers, for proceeds of approximately \$2.9 million; the firm did not sponsor or approve the promissory notes, and Gutta did not provide written notice to, seek or obtain approval from, his firm prior to engaging in the offer and sale of the notes. The findings also stated that Gutta recommended the notes to a firm customer without having a reasonable basis to believe the investment was suitable for her; the customer invested a total of \$235,000 in notes, which was inconsistent with her stated investment objective and risk tolerance.

The suspension is in effect from September 19, 2011, through September 18, 2013. ([FINRA Case #2009017447501](#))

Tom Douglas Hamsher (CRD #1708793, Registered Supervisor, Webb City, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hamsher consented to the described sanction and to the entry of findings that he made misrepresentations and omitted to disclose material facts to many of his customers in connection with the purchase or sale of preferred securities of financial institutions, in conversations and correspondence with multiple member firm customers who purchased the securities on Hamsher's recommendation. The findings stated that after Hamsher's resignation, the firm subsequently settled claims from many of Hamsher's customers, including allegations of material misrepresentations and omissions involving preferred securities of financial institutions, for aggregate payments of approximately \$8.9 million. ([FINRA Case #2009018421001](#))

Michael Jefferson Harper (CRD #4650612, Registered Principal, Coral Springs, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Harper failed to respond in a timely manner to FINRA requests for information and failed to appear for testimony as FINRA requested. ([FINRA Case #2009018908402](#))

Edgar Rhodes Hauser Jr. (CRD #723243, Registered Representative, Livingston, Alabama) 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, Hauser consented to the described sanction and to the entry of findings that at Hauser's request, firm customers borrowed a total of \$202,000 from the cash value

accumulated in whole life insurance policies that Hauser previously sold to them. The findings stated that Hauser then borrowed the funds from these customers, pursuant to secured (as to two of the loans) and unsecured (as to one of the loans) promissory notes providing for annual interest. The findings also stated that Hauser has not made interest or principal payments on the notes. FINRA found that the firm's WSPs prohibit associated persons from engaging in borrowing or loaning funds with a customer, unless the customer is an immediate family member and the firm provides prior written approval; none of the customers from whom Hauser borrowed funds were members of Hauser's immediate family, and Hauser did not seek or receive prior approval for the loans. ([FINRA Case #2010023178101](#))

Timothy Clarke Higgins (CRD #1453841, Registered Representative, Harrisburg, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$3,000 and suspended from association with any FINRA member in any capacity for 30 business days. In determining sanctions, FINRA took into account the prior disciplinary action taken by Higgins' member firm for the same alleged conduct. Without admitting or denying the findings, Higgins consented to the described sanctions and to the entry of findings that he sold equity indexed annuities (EIAs) to people outside the scope of his employment with his firm and without providing the firm prompt written notice of the business activity. The findings stated that Higgins' undisclosed EIA sales totaled about \$127,000 and he received compensation totaling about \$6,340 from the transactions.

The suspension is in effect from October 17, 2011, through November 28, 2011. ([FINRA Case #2010024338201](#))

Michael Ray Howard (CRD #3113620, Registered Principal, Afton, Oklahoma) submitted an Offer of Settlement in which he was fined \$40,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the allegations, Howard consented to the described sanctions and to the entry of findings that he recommended that a customer have her trust purchase a \$500,000 variable annuity that would make payments to her heirs; the purchase of a \$500,000 annuity, issued by an insurance company, would provide the customer's heirs with a monthly income until a certain age. The findings stated that the customer advised Howard that she owned rural real estate, which was held in the trust, and she believed that the property could be sold following her death realizing sale proceeds of approximately \$600,000. The findings also stated that Howard arranged for the trust to borrow \$500,000 from a bank using the real estate as collateral for the loan and using the proceeds to purchase the variable annuity; the trust had to encumber virtually all of its major assets to secure the loan, including the underlying variable annuity, because the market value of the property was only \$375,000. The findings also included that Howard received \$38,526.86 in commission for his sale of the variable annuity to the customer.

FINRA found that Howard knew, or should have known, that the cost of the annuity far exceeded the appraised market value of the real estate and the customer's liquid assets, and that the customer could not pay for the variable annuity he recommended without borrowed funds secured in part by the annuity itself. FINRA also found that Howard did not have a reasonable basis for believing that his recommendation was suitable for the customer in light of her financial circumstances and needs; Howard's recommendation exceeded the customer's financial capability and exposed her to material risk. In addition, FINRA determined that Howard completed the account documents and paperwork for the customer's purchase of the variable annuity, including the variable annuity questionnaire, with false information about the trust's net worth and source of funds; Howard provided the completed questionnaire containing the false information about the trust's financial situation to his member firm, and the firm retained the document in its records. Moreover, FINRA found that in reviewing and approving the annuity sale, Howard's supervisor reviewed the variable annuity questionnaire; Howard thus caused the firm's books and records to be inaccurate and impeded supervision of the annuity sale.

The suspension is in effect from October 3, 2011, through April 2, 2012. ([FINRA Case #2008012282901](#))

Richard Bert Howes (CRD #1313591, Registered Representative, Ponchatoula, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$6,000, which includes the disgorgement of financial benefits received of \$1,000, and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Howes' 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, Howes consented to the described sanctions and to the entry of findings that he participated in a securities transaction without providing prior written notice to his member firm of the proposed transaction and his role therein. The findings stated that Howes referred a customer to a company to invest in a debenture, and based on his referral, the customer invested \$50,000 in a debenture and lost his entire investment; Howes received \$1,000 for the referral of the customer to the company.

The suspension is in effect from October 3, 2011, through December 2, 2011. ([FINRA Case #2011026308301](#))

Joel Arthur Hulke (CRD #2333013, Registered Representative, North Mankato, Minnesota) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hulke failed to respond to FINRA requests for information and on-the-record testimony. The findings stated that Hulke engaged in outside business activities through his association with an insurance company, but failed to notify his firm of this relationship or submit the required outside business activity disclosure form. The findings also stated that the firm uncovered Hulke's association with the insurance company when it investigated Hulke's reversal of a customer's purchase of a fixed annuity entered through

the firm; the firm discovered that Hulke had executed the same fixed annuity transaction for the same customer through the insurance company. The findings also included that Hulke received a commission for the purchase of the fixed annuity executed through the insurance company; the firm also discovered several other instances where Hulke sold annuity and life insurance policies to customers that resulted in additional commission payments to him outside of his firm. ([FINRA Case #2009018295601](#))

Kristen Anne Jacques (CRD #5232488, Associated Person, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was censured, fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Jacques' 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, Jacques consented to the described sanctions and to the entry of findings that she created expense reports associated with personal expenses charged to her member firm-issued credit card, which she ultimately paid. The findings stated that on each expense report, Jacques labeled each expense as "personal" and attached a check to reimburse the firm for the personal expenses charged. The findings also stated that Jacques signed her supervisor's signature on a line on each expense report titled "authorized approval signature," and stamped her supervisor's printed name on a line with the instruction "print approver name." The findings also included that Jacques submitted the expense reports to the firm; neither the firm nor Jacques' supervisor gave her permission or authority to add her supervisor's signature to the expense reports.

The suspension is in effect from September 19, 2011, through September 18, 2012. ([FINRA Case #2010024077701](#))

Steven Lenard Jessup Jr. (CRD #4382228, Registered Representative, Bayside, 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. Without admitting or denying the findings, Jessup consented to the described sanctions and to the entry of findings that he improperly requested and received an answer key to a state LTC CE exam and improperly distributed the answer key to a registered representative outside of his member firm. The findings stated that Jessup was an external wholesaler who marketed an insurance product to financial advisors at financial services firms. The findings also stated that certain states began requiring financial advisors to successfully complete a LTC CE course before selling LTC insurance products to retail customers. The findings also included that Jessup's firm authorized its wholesalers to give financial advisors vouchers from a company, which the financial advisors could use to take CE exams through the company without charge. FINRA found that firm employees created and circulated answer keys to the company's CE exam for various states.

The suspension was in effect from October 3, 2011, through November 2, 2011. ([FINRA Case #2009021029623](#))

Steven Krasner aka Steven Zarkhin (CRD #4541263, Registered Representative, Copiague Harbor, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, ordered to disgorge \$18,126.81, payable as partial restitution, to a customer and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Krasner consented to the described sanctions and to the entry of findings that he made unsuitable recommendations to a customer who was a retiree and inexperienced investor. The findings stated that although the customer agreed to each of Krasner's recommendations, Krasner employed a trading strategy that was not suitable for the customer's particular financial situation; the customer indicated in account opening documents that he had an investment objective of capital preservation and a low risk tolerance. The findings also stated that Krasner recommended the use of margin to execute trades in the customer's account and at times exposed the customer to inappropriate financial risk. The findings also included that Krasner never read the customer's account opening documents, though they were available to him, and was unaware of the customer's financial situation and risk tolerance, as stated in the account opening documents.

FINRA found that Krasner's member firm's database and computer platform that he used to place trades, as well as the account statements that were mailed to the customer each month, inaccurately indicated that the investment objective was speculation; in his conversations with the customer, Krasner never confirmed the accuracy of the investment objective. FINRA also found that Krasner employed a short-term and speculative trading strategy of short selling stock and using margin. In addition, FINRA determined that while Krasner was not fully aware of the customer's stated financial condition, he based his recommendations on the erroneous view that the customer could absorb the high risks of these transactions. Moreover, FINRA found that the customer frequently spoke with Krasner on the phone, gave Krasner express permission to execute the recommended trades and informed Krasner that he was willing to engage in some speculation. Furthermore, FINRA found that Krasner based his recommendations on his conversations with the customer and the firm's inaccurate database, not the accurate financial information that was contained in the account opening documents. The findings also stated that Krasner executed solicited trades in the customer's account, while charging the account \$51,790 in commissions and fees; although several of the individual trades were profitable, including commissions, the customer's account lost \$54,160 in net value, dropping from a net equity value of \$162,571 to \$108,410.

The suspension is in effect from September 19, 2011, through November 18, 2011. ([FINRA Case #2009019995901](#))

Gary Harrison Lane (CRD #713745, Registered Representative, Reno, Nevada) 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, Lane consented to the described sanction and to the entry of findings that he converted

to his personal use a total of \$4.93 million in checks from customers who Lane misled into believing they were investing in U.S. Treasury bonds and/or corporate bonds. The findings stated that instead of investing the customers' money, Lane deposited checks drawn on the customers' accounts into his relative's account to effectuate the conversion of the customers' funds without their authorization. The findings also stated that Lane, in furtherance of his scheme and in an effort to disguise his conversion, made a total of more than \$736,000 in payments to some of the affected customers by cash payments or by transferring funds from his relative's account to a bank account bearing the name of the United States from which cashier's checks were issued to the customers. The findings also included that Lane created and provided his customers with fictitious receipts and typed certifications purporting to confirm his customers' non-existent investments in U.S. Treasury bonds and/or corporate bonds. ([FINRA Case #2011027048601](#))

Richard Michael Large (CRD #4191065, Registered Representative, Clovis, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Large'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, Large consented to the described sanctions and to the entry of findings that he failed to timely update his Form U4 to disclose material facts.

The suspension is in effect from September 19, 2011, through November 17, 2011. ([FINRA Case #2010024650801](#))

Richard Edwin Lenhardt Jr. (CRD #2622625, Registered Representative, Snellville, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Lenhardt consented to the described sanctions and to the entry of findings that he directed an associate to use personal information of some of Lenhardt's customers to establish online access to their accounts at another firm, and through that access, obtain value and performance information relating to whole life insurance policies that the customers held at that firm. The findings stated that although the purpose for obtaining the information was to include it in personalized financial reports that were prepared for the customers, the access to their accounts and insurance policy information was obtained without the customers' knowledge or consent.

The suspension is in effect from October 17, 2011, through December 16, 2011. ([FINRA Case #2009019388001](#))

John Michael Leonard (CRD #2254243, Registered Representative, Chicago, Illinois) 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 two years. The fine must be paid either immediately upon Leonard'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, Leonard consented to the described sanctions and to the entry of findings that he recommended and sold private placements to customers for whom such recommendations and transactions were unsuitable because the issuer's product was inconsistent with their investment objectives, net worth or income. The findings stated that these recommendations were also unsuitable because the issuer's product created an overconcentration of alternative investments in the customers' investment accounts.

The suspension is in effect from October 3, 2011, through October 2, 2013. ([FINRA Case #2009020217101](#))

Kurtis Jon Linn (CRD #1950198, Registered Representative, Irvine, California) 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 four months. The fine must be paid either immediately upon Linn'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, Linn consented to the described sanctions and to the entry of findings that he effected numerous discretionary transactions in the customers' accounts. The findings stated that while Linn had oral discretion to trade in the customers' accounts, he had not obtained written authorization from the customers to exercise discretion and permission from his firm to engage in discretionary trading in the customers' accounts. The findings also stated that Linn met with these customers at least once per quarter to review the activity and composition of their accounts. The findings also included that Linn was ultimately terminated from the firm for utilizing discretion in a customer's account without her written authorization; he had a prior history of exercising discretion without written authorization prior to his termination from the firm, for which the firm had written him a letter reminding him that discretion was only permitted in certain accounts. FINRA found that Linn failed to provide complete and timely responses to FINRA requests for information and documents.

The suspension is in effect from October 17, 2011, through February 16, 2012. ([FINRA Case #2010021205901](#))

Tracey McInchak (CRD #5668780, Associated Person, Dearborn, Michigan) 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, McInchak consented to the described sanction and to the entry of findings that for almost six years, she wrote numerous checks, totaling \$461,013.14, from her member firm's corporate checking account made payable to herself and to her personal credit card companies. The findings stated that McInchak cashed the checks and used them for her own benefit without the firm's knowledge or permission. ([FINRA Case #2010022690601](#))

Scott Stafford McLean (CRD# 1685108, Registered Principal, Manahawkin, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon McLean'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, McLean consented to the described sanctions and to the entry of findings that he recommended to a customer that he transfer his existing mutual funds to McLean's member firm, and told the customer that, if he became dissatisfied, he could liquidate the account at no expense; shortly thereafter, the customer accepted McLean's recommendation and transferred the mutual funds. The findings stated that the customer had suffered losses in those mutual fund investments and wanted to liquidate his holdings; McLean reimbursed the customer \$252 for the charges he incurred in selling the mutual funds, thereby improperly sharing in the customer's losses. The findings also stated that the firm's written procedures expressly prohibited registered representatives from sharing in any benefits or losses with clients resulting from securities transactions.

The suspension was in effect from October 3, 2011, through October 14, 2011. ([FINRA Case #2010024607501](#))

Cheryl Ann McMahon (CRD #3009145, Registered Representative, Indianapolis, Indiana) 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, McMahon consented to the described sanction and to the entry of findings that she worked as an associate financial representative for registered representatives and assisted each of her assigned registered representatives with their daily brokerage tasks, which included ensuring that all incoming checks were properly deposited in the appropriate bank account. The findings stated that McMahon misappropriated \$2,024.22 by forging a registered representative's signature on commission checks from insurance product sponsors; McMahon made each of the checks payable to herself and deposited the forged checks into her personal bank account. ([FINRA Case #2011027268801](#))

Mark Mather Mercier (CRD #1884246, Registered Principal, Lutz, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for three months. The fine must be paid either immediately upon Mercier'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, Mercier consented to the described sanctions and to the entry of findings that as his member firm's CCO, he shared responsibility with the firm's president for conducting due diligence for private placements in which the firm acted as a selling agent only because the firm did not have WSPs addressing due diligence for private placements where the firm

acted as the selling agent only. The findings stated that Mercier signed selling agreements for offerings and, consistent with the terms of the agreements, his firm received fees and/or commissions for soliciting investors, which included a specific fee related to due diligence purportedly performed in connection with each offering. The findings also stated that Mercier did not perform any due diligence and did not seek or obtain due diligence reports for the offerings, which identified red flags with respect to the offerings. The findings also included that Mercier should have scrutinized each of the offerings given the high rates of return, but did not take the necessary steps to ensure that these rates of return were legitimate and not payable from proceeds of later offerings, in the manner of a Ponzi scheme. FINRA found that Mercier did not conduct meaningful due diligence for these offerings prior to approving them for sale to firm customers, and failed to have reasonable grounds for allowing firm representatives to continue selling the offerings despite the negative information and identified red flags. FINRA also found that Mercier, acting on his firm's behalf, failed to maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations with respect to the offerings.

The suspension is in effect from October 17, 2011, through January 16, 2012. ([FINRA Case #2009019070901](#))

Byron Edward Meyer (CRD #4180506, Registered Representative, Sioux Falls, South Dakota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$12,500 and suspended from association with any FINRA member in any capacity for 25 business days. The fine must be paid either immediately upon Meyer'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, Meyer consented to the described sanctions and to the entry of findings that he verbally informed his supervisors of his outside business activities and his business plans, but failed to provide his firm with prompt written notice of his outside business activities, for which he accepted compensation. The findings stated that Meyer, without his relative's knowledge, conducted subaccount transfers, or transactions, in an Individual Retirement Account (IRA) the relative held to his personal account, which held only a variable annuity contract; the annuity sub-account transactions reduced the value of the variable annuity contract by \$1,395.15 by the time the account was formally transferred to his relative. The findings also stated that Meyer transferred \$1,800 from the relative's IRA to his personal bank account. The findings also included that the firm immediately reversed the transaction as well as reimbursed Meyer's relative \$1,395.15 for the account's reduction in value caused by Meyer's transactions; Meyer has made full restitution to the firm.

The suspension was in effect from September 19, 2011, through October 21, 2011. ([FINRA Case #2011026619801](#))

Christopher James Neri (CRD #4703664, Registered Representative, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. Without admitting or denying the findings, Neri consented to the described sanctions and to the entry of findings that he improperly created an answer key for a state insurance LTC CE examination when he sat with a registered representative taking the CE examination and provided the registered representative with his opinion as to the correct answers to certain questions, recorded the answers the registered representative selected on a piece of paper, retained the answer key for several months and then transferred the answer key to an email. The findings stated that Neri improperly distributed that answer key to other employees of his member firm when he sent that email to other wholesalers of the firm; after a wholesaler emailed Neri to inquire whether he had answers for the CE test, Neri sent the email to other wholesalers of the firm. The findings also stated that on multiple occasions, Neri improperly assisted registered representatives outside of the firm taking the LTC CE examination by referring to the answer key and providing them with some or all of the examination answers; either in person or over the phone, Neri provided the registered representatives with his opinion as to the correct answers to some or all of the examination questions without reference to the answer key while they were taking the exam. The findings also included that on multiple occasions, Neri took the LTC CE examination, in whole or part, for registered representatives outside of the firm by meeting with registered representatives in their offices, sitting at their computers and either answering all the questions himself without assistance from the representative, or the representative would provide some of the answers, which Neri would enter then into the computer.

The suspension is in effect from October 3, 2011, through December 31, 2011. ([FINRA Case #2009021029624](#))

Eric Oluwarotimi Olojugba (CRD #2925026, Registered Principal, New York, 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 six months. The fine must be paid either immediately upon Olojugba'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, Olojugba consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for information and documents.

The suspension is in effect from October 3, 2011, through April 2, 2012. ([FINRA Case #2010025656402](#))

Michael Kevin O'Sullivan (CRD #4476077, Registered Representative, Easton, 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 60 days. The fine must be paid either immediately upon O'Sullivan'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, O'Sullivan consented to the described sanctions and to the entry of findings that he signed his customers' names on insurance contract-related forms with the customers' knowledge and permission.

The suspension is in effect from September 19, 2011, through November 17, 2011. ([FINRA Case #2009019984501](#))

David Allen Peck (CRD #2492127, Registered Representative, Holland, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Peck'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, Peck consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction by participating in the sale of a \$50,000 secured investment note from an entity to a current client of his firm. The findings stated that Peck failed to provide his firm with prior notice of his participation in this transaction. The findings also included that the SEC filed a complaint in the United States District Court for the Central District of California against the entity and related parties alleging that they were perpetrating an ongoing \$216 million real estate investment fraud.

The suspension is in effect from October 17, 2011, through November 16, 2011. ([FINRA Case #2009020645101](#))

Jason Pedigo (CRD #4952772, Registered Representative, Little Rock, Arkansas) 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, Pedigo consented to the described sanction and to the entry of findings that he submitted a fixed annuity contract for his customer with an insurance company; the insurance company issued the annuity contract and sent it to Pedigo in accordance with its selling agreement. The findings stated that the insurance company never received the customer's executed annuity contract confirmation (ACC); as a result, it mailed letters to Pedigo numerous times requesting that he have the customer sign and return the ACC. The findings also stated that Pedigo informed the insurance company that the customer was deceased and requested paperwork to submit a death claim; according to the insurance company, it never received the death claim paperwork. The findings also included that after receiving a surrender request form that same day, the insurance company contacted Pedigo to inform him that a full surrender could not be processed because the customer was deceased. FINRA found that over a year after the customer had passed, Pedigo falsely informed the insurance company that the customer was still alive; Pedigo faxed the insurance company an ACC which the customer purportedly signed and dated almost 20 days after the customer had died. ([FINRA Case #2010025512501](#))

Ralph Howly Phillips (CRD #2145356, Registered Principal, New Kensington, 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, Phillips consented to the described sanction and to the entry of findings that his customers gave him funds to invest in various securities; Phillips instructed his customers to make their checks payable to a consulting company that Phillips owned and controlled. The findings stated that Phillips deposited the customers' funds into the consulting company's bank account, which he controlled, often delayed making the investments, and then only invested a portion of the funds his customers gave him. The findings also stated that Phillips misused the customers' funds by using those funds to pay the consulting company's expenses. The findings also included that Phillips willfully filed a Form U4 with materially false information. ([FINRA Case #2009017746801](#))

Larry Alan Prelesnik (CRD #819789, Registered Representative, Palm Desert, California) 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 20 business days. Without admitting or denying the findings, Prelesnik consented to the described sanctions and to the entry of findings that he placed reallocated variable annuity subaccount investments in his customers' accounts on a discretionary basis, without the customers' or his member firm's prior written approval. The findings stated that Prelesnik sent letters to the firm customers whose accounts he serviced and who were participating in the investment strategy explaining his decision to make a 100 percent bond positioning; the letter contained ranking information that was incomplete and oversimplified. The findings also stated that Prelesnik prepared update letters regarding the 100 percent allocation to bonds that included comparisons that were incomplete and oversimplified because they only justified Prelesnik's decision to move funds to the bond portfolios given market performance in the weeks following the decision to sell, and short-term performance of the fund that was not fair and balanced, and did not provide a sound basis for evaluating the fund. The findings also included that Prelesnik sent emails to prospective customers that included his letter correspondence as well as an attachment that contained total performance of his portfolios for years past; the use of such outdated performance data, which was then compared to major market indexes for the same years, without any disclaimers, was not fair and balanced. FINRA found that the communication failed to identify the product as a variable annuity, and the identification of the portfolios was inaccurate because it implied that Prelesnik was a fund manager with a company when he was not. FINRA also found that the performance information included in the communications failed to comply with the requirements of SEC Rule 482 to disclose investment objectives, performance risk and sales charges.

The suspension was in effect from October 3, 2011, through October 28, 2011. ([FINRA Case #2009016737101](#))

Daniel Lee Puplava (CRD# 1875190, Registered Principal, Escondido, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,000, suspended from association with any FINRA member in any capacity for three months, and suspended from association with any FINRA member in a principal or supervisory capacity for 20 business days. Without admitting or denying the findings, Puplava consented to the described sanctions and to the entry of findings that Puplava's non-registered assistant had access to his signature guarantee stamp, and without Puplava's knowledge, permitted the member firm's registered representatives to use the signature guarantee stamp to approve securities business-related transactions and paperwork that required a signature guarantee stamp. The findings stated that Puplava discovered this practice and instructed his non-registered assistant and the registered representatives involved to discontinue the practice, but Puplava did not take back his signature guarantee stamp or take steps to otherwise secure the stamp to prevent its misuse. The findings also stated that Puplava had customers sign blank securities business-related forms, including non-brokerage change request forms, mutual fund transfer forms and securities account forms, and retained these forms in his customer files contrary to his member firm's prohibition against this practice.

The suspension in any capacity is in effect from October 3, 2011, through January 2, 2012. The suspension in any principal or supervisory capacity was in effect from October 3, 2011, through October 28, 2011. ([FINRA Case #2007010991901](#))

Krittibas Ray (CRD #3039388, Registered Representative, Albany, 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, Ray consented to the described sanction and to the entry of findings that he solicited prospective investors to purchase promissory notes as a vehicle to fund the start up of a hedge fund and to pay the ongoing operations of the fund; investors purchased more than \$675,000 in promissory notes from Ray. The findings stated that Ray represented he could pay above-U.S. market interest rates based in part on the fact he could obtain these rates by investing the funds in a foreign bank; Ray failed to invest the proceeds of the notes with the foreign bank, used some of the proceeds for personal expenses and used proceeds from later sales to pay interest and repay principal amounts due on notes earlier purchasers held. The findings also stated that Ray made materially misleading statements and omissions of fact, including misrepresenting the use of proceeds from the sale of the promissory notes, misrepresenting how and where the proceeds were to be invested, and failing to disclose he was using the proceeds from the sale of promissory notes to pay interest and principal amounts due to earlier note holders. The findings also included that Ray participated in private securities transactions through the sale of promissory notes without providing written notice to his firm describing in detail the proposed transaction, his role therein and stating whether he received, or would receive compensation, and without obtaining his firm's approval. ([FINRA Case #2010023781701](#))

Thomas Neil Razey (CRD #1528110, Registered Representative, Pennellville, New York) submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the allegations, Razey consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose material facts.

The suspension is in effect from October 17, 2011, through November 28, 2011. ([FINRA Case #2009019013201](#))

Harmik Sarian (CRD #4333116, Registered Representative, Glendale, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$6,000 and suspended from association with any FINRA member in any capacity for 90 days. Without admitting or denying the findings, Sarian consented to the described sanctions and to the entry of findings that he impersonated customers via telephone in order to effect transactions in their accounts. The findings stated that Sarian signed a relative's name on a brokerage account withdrawal form to effect a transaction in the account.

The suspension is in effect from October 3, 2011, through December 31, 2011. ([FINRA Case #2010022545001](#))

Joshua N. Sharer (CRD #4873650, Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Sharer consented to the described sanction and to the entry of findings that he failed to comply with FINRA requests for documents and information regarding the alleged reversal of \$1,092 in fees in his checking account and the checking account of an acquaintance. ([FINRA Case #2010022360701](#))

Jan D. Smida (CRD# 4052976, Registered Representative, Arlington, Massachusetts) submitted an Offer of Settlement in which he was fined \$30,200, which includes the disgorgement of commissions received of \$25,200, and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the allegations, Smida consented to the described sanctions and to the entry of findings that he recommended and sold a \$1 million variable universal life insurance policy (VUL) to a customer without having reasonable grounds for believing that the transaction was suitable for her in light of her financial situation, investment objectives and needs. The findings stated that on Smida's recommendation, and through arrangements that he made, the initial and subsequent monthly premium payments were paid by partial withdrawals from variable annuities that the customer had previously purchased; as Smida knew, the partial withdrawals from the customer's third variable annuity would have depleted that policy of all of its value within two years. The findings also stated that Smida knew the \$1 million VUL would have lapsed within a year had the customer discontinued the premium payments, and would have forfeited all of the money that was paid toward

that policy. The findings also included that as a result of those partial withdrawals, the customer incurred \$1,812.76 in surrender charges; the variable annuity issuer also withheld \$4,000 from the customer's partial withdrawal proceeds for federal and state taxes arising from the withdrawal. FINRA found that Smida received a sales commission of \$25,200 for his sale of the \$1 million VUL to the customer.

The suspension was in effect from October 17, 2011, to November 4, 2011. ([FINRA Case #2008013405801](#))

David Song (CRD #2966872, Registered Representative, Whitestone, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Song consented to the described sanction and to the entry of findings that he refused to appear for a FINRA on-the-record interview regarding unauthorized securities transactions. ([FINRA Case #2010021644301](#))

Yevgeniya N. Stradling (CRD #4622048, Registered Representative, Gilbert, Arizona) 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, Stradling consented to the described sanction and to the entry of findings that she misappropriated \$1,000 of insurance premiums a customer of her member firm's insurance affiliate paid; Stradling failed to deposit the insurance premiums into the insurance affiliate's bank account or into a segregated account held in trust for customers and instead deposited the customer's checks into her business checking account and used the premiums payments to pay her own expenses and had a negative account balance. The findings stated that Stradling did not deposit the premiums in the insurance affiliate account because she planned on placing the customer's policy with a different insurance carrier; later, she placed the policy with the insurance affiliate but failed to use the customer's funds to pay for the insurance, made a partial payment and made the remaining payment after the insurance affiliate informed her of the shortfall. The findings also stated that the insurance affiliate performed a special internal field audit of Stradling's handling of insurance customer premiums after receiving a complaint the customer initiated; Stradling admitted in a signed statement to accepting premium payments from the insurance customer and using the check proceeds for her personal benefit, thereby misappropriating customer funds. The findings also included that Stradling failed to provide FINRA with information or documents or to appear and testify as requested. ([FINRA Case #2010023036701](#))

Dale David Twardowski (CRD #4056379, Registered Principal, Palm Harbor, Florida) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Twardowski consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for documents and information, and failed to appear for and provide testimony. ([FINRA Case #2009020936801](#))

Paul Leon White II (CRD #4669396, Registered Representative, Huntington, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, White consented to the described sanction and to the entry of findings that he recommended that a customer invest in non-listed real estate investment trusts (REITs) and a tenants-in-common (TIC) interest in undeveloped rural real estate without a reasonable basis to believe that the recommendations were suitable for the customer based on the customer's financial status and investment objectives, and the customer's need for liquidity, preservation of capital, ready access to cash, and safety of principal. The findings stated that the customer instructed White to sell the REITs and White acknowledged receipt of the sell instructions and informed the customer to expect to receive a check for the sale proceeds within one to two weeks, but later refused to process the sell orders. The findings also stated that White participated in the sale of TIC interests totaling \$3,700,000, outside the course or scope of his employment with his firm and collected selling compensation of approximately \$1,653,958 but failed to provide his firm with prior written notice describing the proposed transactions. ([FINRA Case #2009017798201](#))

Robert Henry Van Zandt (CRD# 453496, Registered Representative, Bronx, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings Van Zandt consented to the described sanction and entry of findings that he failed to provide information and documents. The findings stated that Van Zandt, through counsel, advised FINRA that due to circumstances beyond his control, he was not in a position to respond to FINRA inquiries. ([FINRA Case #2011027577001](#))

Daniel Joseph Voccia II (CRD #2691802, Registered Principal, Calverton, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Voccia consented to the described sanction and to the entry of findings that he was a brokerage partner with another registered representative, shared clients and commissions and collaborated on outside ventures, including a private company they formed. The findings stated that Voccia and his partner orally informed their member firm they were involved in an outside business activity relating to their company, and the firm gave oral approval with the understanding they would only solicit one firm customer; Voccia and his partner solicited other investors, including firm customers, without the firm's knowledge and approval. The findings also stated that Voccia made misrepresentations and omissions of material fact when he told prospective investors that the company and its related companies had good chances of success and would be able to sustain themselves even though he had insufficient knowledge of the companies' finances, and his representations were misleading because he focused on the potential benefits of investing in the company without providing adequate disclosure about the risks. The findings also included that Voccia engaged in capital raising for his company and his related companies; individuals invested approximately \$6 million dollars during a five-year period.

FINRA found that Voccia and his partner were able to sell investments without the firm's knowledge because the investments were not held with their firm's clearing firm but were held with firms that their firm allowed its brokers to use to maintain custody of illiquid investments such as their company. FINRA also found that Voccia did not provide the firm with written notice of any of the proposed offerings and did not inform the firm that he had received, or might receive, compensation for selling the offered securities. In addition, FINRA determined that the firm did not approve the private securities transactions, did not record them on its books and records and did not supervise Voccia's participation in the transactions. Moreover, FINRA found that Voccia failed to disclose numerous outside business activities unrelated to his company without prompt written notice to his firm. Furthermore, FINRA found that Voccia failed to amend his Form U4 to disclose material information and failed to respond to FINRA requests for information, documents and to timely appear for testimony. ([FINRA Case #2009017195203](#))

Individual Fined

Dirk Allen Taylor (CRD #1008197, Registered Supervisor, San Antonio, Texas) was fined \$5,000. The NAC modified the findings and the sanctions imposed following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Taylor made misrepresentations to his member firm and caused the firm to maintain inaccurate books and records. The findings stated that Taylor submitted a document to his firm that falsely represented that he had delivered preliminary prospectuses to all of his customers that would be purchasing an initial public offering. ([FINRA Case #2007009446801](#))

Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of September 30, 2011. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed the decisions. Initial decisions where the time for appeal has not yet expired will be reported in future issues of FINRA Disciplinary and Other Actions.

Max International Broker/Dealer Corp. (CRD # 46039, New York, New York) was censured, fined \$335,000 and ordered to pay \$482,111.27, plus accrued interest, in restitution to customers. The sanctions were based on findings that the firm willfully charged fraudulent, excessive, undisclosed markups to customers in connection with the sale of penny stocks from its proprietary account. The findings stated that the firm charged commissions, implying to the customers that the commissions represented all of the firm's profit from the transactions. The findings also stated that the firm failed to record trade details on order tickets and other records, failed to record the terms of the sales accurately, and failed to report the trades as required, which allowed the fraudulent markups to be undetected by customers and regulators. The findings also included that the firm did not submit last

sales reports of transactions in OTC equity securities within 90 seconds after execution to the OTC Reporting Facility. FINRA found that the firm did not create order memoranda for certain customer transactions, and the order memoranda for other securities transactions the firm generated did not reflect the time and date of the receipt, entry or execution of the customer orders. FINRA also found that the memoranda did not show execution price of a number of sales to customers, and in some cases recorded the price inaccurately. In addition, FINRA determined that the firm created deficient blotters; the blotters did not accurately record the terms of the customer orders. Moreover, FINRA found that the firm failed to record solicited customer sales as solicited on trade confirmations. Furthermore, FINRA found that the firm did not inform FINRA of its intent to employ electronic storage media (ESM); it moved, deleted and changed electronic files and did not maintain them in the “write once-read many” (WORM) format. The findings also stated that the firm reused the backup tapes onto which documents were scanned after a week, instead of maintaining them as required, had no system for scanning written documents, such as account forms, for storage, and failed to create and maintain a duplicate copy of the ESM. The findings also included that the firm failed to maintain its email communications in conformity with SEC Rule 17a-4; email communications were stored in an administrator inbox that the CEO and CCO could access, and from which they could alter and delete messages at will. FINRA found that the firm failed to enforce its supervisory procedures relating to markups and proprietary customers trades, and also failed to maintain evidence of its testing and verifications of its supervisory procedures, failed to identify the principal serving as its CCO on its Application for Broker-Dealer Registration (Form BD), until months after he began his service in that capacity and the firm’s CEO filed late a required annual certification that it has in place processes to establish, maintain, review, test, and modify its written policies and procedures designed to achieve compliance with applicable rules and securities laws.

The firm appealed the decision to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2007007253803](#))

Complaints Filed

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

Andrew Paul Arno (CRD #2643104, Registered Representative, West Melbourne, Florida) was named as a respondent in a FINRA complaint alleging that he misused customers’ funds by depositing them into a bank account that he controlled instead of investing them

in IRAs as he had represented to the customers and their relatives. The complaint alleges that Arno failed to respond to a FINRA request for information and failed to appear for testimony. ([FINRA Case #2010023480801](#))

William Lewis Baldwin (CRD #11221, Registered Principal, Dallas, Texas) was named as a respondent in a FINRA complaint alleging that as part of his association with his member firm, he created and published periodic written research reports (the Baldwin Reports) concerning publicly traded companies, and on numerous occasions knowingly traded in the securities of one or more of the companies whose businesses or securities were discussed in the Baldwin Reports; Baldwin conducted this trading through the brokerage account of an entity he operated, his IRA, and his and his relative's joint account. The complaint alleges that Baldwin willfully violated SEC Regulation AC, in that the Baldwin Reports did not contain the required certifications that the views expressed in the research report accurately reflected the research analyst's personal views about the securities or issuers, and that no part of his or her compensation was, or will be, directly or indirectly related to the recommendation or views contained in the research report. ([FINRA Case #2009016264001](#))

Jeffrey James Frye (CRD #1916522, Registered Representative, Lawrence, Kansas) was named as a respondent in a FINRA complaint alleging that he changed, or caused a customer's address of record at his member firm to be changed, to his own residential address reflected in Central Registration Depository (CRD) and caused the customer's telephone number of record at the firm to be changed to his own telephone number, without the customer's knowledge or authorization; at the time of these changes, the customer's home address was not the CRD address and the customer's telephone number was not the same as Frye's telephone number. The complaint alleges that Frye called his member firm's customer interaction center (CIC) on a recorded telephone line and requested a \$4,500 loan from the customer's life insurance contract, without the customer's knowledge or authorization; Frye requested that the firm electronically transfer the loan proceeds to the customer's bank account. The complaint also alleges that Frye called CIC on a recorded line and represented that the customer changed her mind about having the loan proceeds electronically transferred to her bank account; Frye told the CIC representative that the customer wanted the electronic transfer reversed and a check for \$4,500 issued, and that the check was to be sent to the CRD address. The complaint further alleges that Frye called CIC again on a recorded line and told the CIC representative that the customer did not want to wait the 10 days that it would take to reverse the electronic transfer and issue a \$4,500 check; Frye instructed the representative that the request for the \$4,500 check was cancelled and the funds were to be returned to the customer's insurance contract. In addition, the complaint alleges that Frye then requested a new loan of \$4,000 from the customer's insurance contract and confirmed that the check be sent to the CRD address without the customer's knowledge or authorization; the firm mailed a \$4,000 loan check from the customer's insurance contract to the CRD address. Moreover,

the complaint alleges that the customer called CIC and, in the process of attempting to authenticate her identity, the customer discovered that her residential address and telephone number had changed to Frye's contact information; the customer told the CIC representative that her contact information had not changed and that she had not authorized Frye to make changes to her contact information. Furthermore, the complaint alleges that the customer was not aware of the recent loan transactions requested on her insurance contract and the representative placed a stop payment order on the \$4,000 loan check. The complaint also alleges that Frye called CIC on a recorded line, after he received automated service contact reports from the customer's conversation with CIC, and told the CIC representative that the customer was getting confused about what she wanted and that all loan transactions needed to be reversed; Frye was contacted by the firm's disbursement group on a recorded line and told that the customer requested that the loan transactions be cancelled and the funds applied back to her insurance contract, and that a stop payment order had been placed on the \$4,000 check mailed to the CRD address. The complaint further alleges that Frye failed to comply with FINRA requests for information and testimony. ([FINRA Case #2010024813601](#))

Gary Lee Gossett (CRD #1939514, Registered Principal, Spokane, Washington) was named as a respondent in a FINRA complaint alleging that his member firm placed him on heightened supervision because of prior customer complaints and a state regulator's concerns. The complaint alleges that a customer opened an IRA with Gossett at his firm and listed growth as his primary investment objective, with speculation as his secondary objective. The complaint also alleges that Gossett made trades in the account involving purchases of unsuitable penny stocks; the stocks were unsuitable on the basis of the customer's financial situation and needs. The complaint further alleges that when effecting the transactions, Gossett marked the order memoranda for the trades as unsolicited orders when, in fact, they were solicited by Gossett, thereby causing his firm's books and records to be inaccurate and not compliant with Securities Exchange Act Rules 17a-3 and 17a-4. In addition, the complaint alleges that Gossett effected the transactions on a discretionary basis, without the customer's or the firm's prior written authorization. ([FINRA Case #2010025132201](#))

Robert Durant Tucker (CRD #1725356, Registered Representative, New York, New York) was named as a respondent in a FINRA complaint alleging that he converted \$4,500 of a customer's funds for his personal use by instructing his member firm's clearing firm to wire funds from the customer's account to his personal bank checking account. The complaint alleges that Tucker prepared and signed a wiring form as the broker and manager, even though he was not licensed as a general securities principal, was not a firm manager, and had no authority to sign as a manager. The complaint also alleges that Tucker did not ask a firm manager to sign the form or approve the transaction. The complaint further alleges that by signing as the principal and faxing the wiring form offsite, Tucker circumvented the firm's supervisory review of the wire transfer to his personal checking account. In addition, the complaint alleges that Tucker commingled the customer's funds with his own in his personal checking account without the customer's knowledge and consent. Moreover, the complaint alleges that Tucker's relative repaid the funds on his behalf. ([FINRA Case #2009016764901](#))

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

First Union Securities, Inc. (CRD# 129502)
Shelton, Connecticut
(September 6, 2011)
FINRA Case #2008012927503

Firm 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.)

Black Diamond Securities, LLC (CRD #151228)
Kirkland, Washington
(September 22, 2011)
FINRA Case #2011029005801

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

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

Boston Merchant Financial Services, Inc. (CRD #23739)
Boston, Massachusetts
(September 1, 2011)

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

Capwest Securities, Inc. (CRD #30002)
Greeley, Colorado
(September 23, 2011)

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

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

Alexander Capital, L.P. (CRD #40077)
Garden City, New York
(September 27, 2011 – October 6, 2011)

Boston Merchant Financial Services, Inc. (CRD #23739)
Boston, Massachusetts
(September 7, 2011)

First Union Securities, Inc. (CRD #129502)
Shelton, Connecticut
(September 7, 2011)

Grey Bassett LLC (CRD #148938)
Greenwich, Connecticut
(September 7, 2011 – September 26, 2011)

Lombardi & Co., Inc. (CRD #44810)
New York, New York
(September 7, 2011 – October 4, 2011)

Lone Star Securities, Inc. (CRD #20452)
Addison, Texas
(September 7, 2011)

Ludlow Ward Securities LLC (CRD #137107)
Cincinnati, Ohio
(September 7, 2011)

Marquis Holdings, Inc. (CRD #123621)
New York, New York
(September 7, 2011 – September 15, 2011)

MetCap Securities, LLC (CRD #30418)
New York, New York
(September 7, 2011)

Microtrade Networks, Inc. (CRD #43558)
Las Vegas, Nevada
(September 7, 2011 – September 13, 2011)

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.)

Brian Douglas Bray (CRD #1043861)
Tucson, Arizona
(September 27, 2011)
FINRA Case #2011026423901

Shad Nhebi Clayton (CRD #4637068)
Des Moines, Iowa
(September 6, 2011)
FINRA Case #2011026691701

Ronald Edward Davis (CRD #1000331)
Scottsdale, Arizona
(September 12, 2011)
FINRA Case #2011026484001

Richard Charles Fredericks (CRD #807275)
Syosset, New York
(September 12, 2011)
FINRA Case #2010021263401

Lauren Catherine Hood (CRD #4729596)
Gibson City, Illinois
(September 9, 2011)
FINRA Case #2010022449901

Christopher Kuhlhoff (CRD #5103604)
Thousand Oaks, California
(September 6, 2011)
FINRA Case #2010025724901

Jason Spencer May (CRD #4255401)
North Palm Beach, Florida
(September 6, 2011)
FINRA Case #2009020230501

James Howard Miller (CRD #3115732)
Delray Beach, Florida
(September 9, 2011)
FINRA Case #2010024305901

Robert Douglas Miller Jr. (CRD #4130503)
Lake St. Louis, Missouri
(September 6, 2011)
FINRA Case #2009020422001

Wade Alan Powell (CRD #3004276)
Mason, Texas
(September 6, 2011)
FINRA Case #2010023346101

Mark Wesley Stephens (CRD #4472630)
San Antonio, Texas
(September 6, 2011)
FINRA Case #2009019212101

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.)

Ignacio Santiago Altuve (CRD #4262419)
Carolina, Puerto Rico
(November 27, 2006 – September 29, 2011)
FINRA Case #2005002926001

Michael Winston Blakemore (CRD #1330035)
Wilton, New York
(September 6, 2011)
FINRA Case #2010025329201

Dante Mark Booker (CRD #2937506)
Bronx, New York
(September 8, 2011)
FINRA Case #2011026363201

Wilfredo Colon (CRD #1813130)
Miami, Florida
(September 12, 2011)
FINRA Case #2011027249701

Max Stephen Cooks (CRD #4941269)

Cincinnati, Ohio
(September 12, 2011)
FINRA Case #2011027181701

Richard Allan Finger Jr. (CRD #4432634)

Bellevue, Washington
(September 22, 2011)
FINRA Case #2011029005801

David Matthew Gottschalk (CRD #2827441)

Oxford Township, Michigan
(September 12, 2011)
FINRA Case #2011027352301

Martha Joyce Hawk (CRD #2138472)

Blountville, Tennessee
(September 19, 2011)
FINRA Case #2010024599201

Kenneth Charles Hays (CRD #2753344)

Bloomington, Indiana
(September 6, 2011)
FINRA Case #2011026303101

Daniel Michael Hellquist (CRD #5756450)

Cottage Grove, Minnesota
(September 8, 2011)
FINRA Case #2010024357101

Karl Edward Kapustka (CRD #1844025)

San Antonio, Texas
(September 15, 2011)
FINRA Case #2011027867001

Paul Anthony LaRocco (CRD #1829706)

Ocala, Florida
(September 12, 2011)
FINRA Case #2010021224801

Phi Van Le (CRD #5069866)

Altadena, California
(June 20, 2011 – September 1, 2011)
FINRA Case #2010025356701

Sherise Chantal Lee (CRD #2768291)

Tallahassee, Florida
(September 9, 2011)
FINRA Case #2010024008801

Juan Rene Marte (CRD #5580395)

Orlando, Florida
(September 12, 2011)
FINRA Case #2010022683101

Michael Louis Maseritz (CRD #2219521)

Annapolis, Maryland
(September 9, 2011)
FINRA Case #2010022328601

Juan Ramos Monterroso (CRD #4633557)

Arlington, Virginia
(September 12, 2011)
FINRA Case #2010023814901

David Craig Neison (CRD #1607562)

Shelbyville, Kentucky
(September 6, 2011)
FINRA Case #2011026406801

Cameron D. Polom (CRD #5516685)

Surprise, Arizona
(September 12, 2011 – September 29, 2011)
FINRA Case #2011028093901

Justin David Reynolds (CRD #5384684)

Morristown, New Jersey
(September 8, 2011)
FINRA Case #2011026964701

Antonio Jorge Seminario (CRD #2673196)

Plantation, Florida
(September 19, 2011)
FINRA Case #2010023888401

Joseph Anthony St. Angelo (CRD #1169212)
Ashtabula, Ohio
(September 12, 2011)
FINRA Case #2010024415201

Alex B. Van Beek (CRD #4733984)
West Hartford, Connecticut
(September 12, 2011)
FINRA Case #2011026058601

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

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

Keith Gordon Anderson (CRD #1401002)
Atlanta, Georgia
(September 8, 2011)
FINRA Arbitration Case #10-05147

David Leroy Carlson (CRD #1071647)
Simi Valley, California
(September 8, 2011)
FINRA Arbitration Case #10-00477

Guillermo Davis Clamans (CRD #4310447)
New York, New York
(September 28, 2011)
FINRA Arbitration Case #09-02964

Thomas Joseph Debono (CRD #4193516)
Stockton, California
(September 28, 2011 – October 6, 2011)
FINRA Arbitration Case #10-04813

Jamie Lydell Dick (CRD #3004669)
Henderson, Nevada
(September 8, 2011)
FINRA Arbitration Case #10-04761

Matthew Morgan Dooley (CRD #2507851)
Mill Valley, California
(September 15, 2011)
FINRA Arbitration Case #09-06292

Howard James Egeland (CRD #2327616)
St. Cloud, Minnesota
(September 8, 2011)
FINRA Arbitration Case #09-04506

Terri Jo Evans (CRD #3031297)
Viola, Wisconsin
(September 8, 2011)
FINRA Arbitration Case #10-04211

Jeffrey Dewey Gargiulo (CRD #5265494)
New York, New York
(September 8, 2011)
FINRA Arbitration Case #11-00548

Ronald Edward Hardy Jr. (CRD #2668695)
Port Jefferson Station, New York
(September 28, 2011)
FINRA Arbitration Case #09-06732

Gregory Thomas Kwasnicki (CRD #2844089)
Red Bank, New Jersey
(September 15, 2011)
FINRA Arbitration Case #11-00485

Kristi Ann Lenderman (CRD #4196544)
Castle Rock, Colorado
(September 15, 2011)
FINRA Arbitration Case #11-00109

John Richard Liegey (CRD #846047)
New York, New York
(September 12, 2011)
FINRA Arbitration Case #10-05253

Kathleen Jena Loflin (CRD #2017353)
Palm Bay, Florida
(September 15, 2011)
FINRA Arbitration Case #10-04842

David Dimuccio Matthews (CRD #2582135)
Londonderry, New Hampshire
(September 15, 2011)
FINRA Arbitration Case #10-02394

Bryan C. Oliver (CRD #4409766)
Meridian, Idaho
(September 28, 2011)
FINRA Arbitration Case #09-06564

James Michael Porrazzo (CRD #3032023)
Long Beach, New York
(September 15, 2011)
FINRA Arbitration Case #11-00386

Steven Lawrence Sadicario (CRD #1227073)
Coral Springs, Florida
(September 28, 2011)
FINRA Arbitration Case #10-05118

Attila Gyula Toth (CRD #2565633)
Phoenix, Arizona
(September 28, 2011)
(FINRA Arbitration Case #09-06787

Michael Douglas Venable (CRD #1782517)
Tyler, Texas
(September 8, 2011)
FINRA Arbitration Case #10-02638

Steven Scott Williams (CRD #1834331)
Dallas, Texas
(September 28, 2011)
FINRA Arbitration Case #09-00906

**Kenneth Thomas Williamson Jr.
(CRD #1387562)**
Bradenton, Florida
(September 8, 2011)
FINRA Arbitration Case #11-00587

FINRA Fines Five Broker Dealers for Improper Handling Fees

Firms Understated Commissions by Mischaracterizing Portion of Charges as Handling Fees

The Financial Industry Regulatory Authority (FINRA) fined five broker-dealers for understating the amount of total commissions charged to customers in trade confirmations and on fee schedules by mischaracterizing a portion of the commission charges as fees for handling services. With respect to each of these firms, the handling fees were designed to serve as a source of additional transaction based remuneration for the firm and thus were far in excess of the cost of the handling-related services the firms provided.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Trade confirmations and fee schedules must clearly reflect commission charges, and firms cannot disguise commissions by improperly describing them as charges for ancillary services. FINRA will continue to look closely at any firms that engage in these practices."

The cases resulted from a targeted review of improper fees charged by broker-dealers in which FINRA found that the firms were routinely charging customers for handling fees that far exceeded the actual cost of the direct handling-related services the firms incurred in processing securities transactions. In some cases, firms charged a handling fee of almost \$100 per transaction and earned a substantial percentage of their revenue from these fees.

FINRA sanctioned the following firms:

- Pointe Capital, Inc. (nka JHS Capital Advisors, Inc.), of Boca Raton, Florida, was fined \$300,000. The firm charged customers a handling fee as high as \$95 per trade in addition to a commission. (Additional violations included inadequate supervisory procedures.)
- John Thomas Financial, of New York, NY, was fined \$275,000. The firm charged its customers a handling fee as high as \$75 per trade in addition to a commission. (Additional violations included effecting material changes in its business operations without prior approval from FINRA, and deficiencies in complaint reporting, supervisory controls and certifications, branch office supervision and recordkeeping.)
- First Midwest Securities, Inc., of Bloomington, IL, was fined \$150,000. The firm charged customers a handling fee as high as \$99 per trade in addition to a commission. (Additional violations included unfair and unreasonable markups/markdowns and inadequate written supervisory procedures.)
- A&F Financial Securities, Inc., of Syosset, NY, was fined \$125,000. The firm charged its customers a handling fee of \$65 per trade in addition to a commission. (Additional violations included inadequate supervisory system and procedures, and failure to comply with continuing education requirement.)
- Salomon Whitney LLC, of Babylon Village, NY, was fined \$60,000. The firm charged its customers a handling fee as high as \$69 per trade in addition to a commission.

In settling FINRA's actions, the firms agreed to implement corrective action to remedy the handling fee-related violations. The firms agreed to fully and accurately disclose the specific service performed and the related fee on confirmations and any other communications with a customer where fees are discussed. In addition, they will identify all transaction-based remuneration as commissions or mark-ups (mark-downs) rather than as postage, handling or any other miscellaneous fee. The firms also agreed to revise their written supervisory procedures and to provide training to the firms' registered representatives and associated persons related to transaction-based remuneration, reasonable fees, their appropriate disclosure to customers and retention of related records.

In concluding these settlements, the firms neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

FINRA Orders Raymond James & Associates, Inc. and Raymond James Financial Services, Inc. to Pay \$1.69 Million in Restitution for Charging Unfair Commissions

The Financial Industry Regulatory Authority (FINRA) ordered Raymond James & Associates, Inc. (RJA) and Raymond James Financial Services, Inc. (RJFS) to pay restitution of \$1.69 million to more than 15,500 investors who were charged unfair and unreasonable commissions on securities transactions. FINRA also fined RJA \$225,000 and RJFS \$200,000.

FINRA found that from Jan. 1, 2006, to Oct. 31, 2010, RJA and RJFS used automated commission schedules for equity transactions that charged more than 15,500 customers nearly \$1.69 million in excessive commissions on over 27,000 transactions involving, in most instances, low-priced securities. The firms' supervisory systems were inadequate because the firms established inflated schedules and rates without proper consideration of the factors necessary to determine the fairness of the commissions, including the type of security and the size of the transaction.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Raymond James failed to adequately monitor its supervisory systems and as a result, both Raymond James & Associates and Raymond James Financial Services overcharged thousands of customers on their securities transactions. Broker-dealers must ensure that their automated systems set commission charges that are fair to investors."

FINRA required the firms to revise their automated commission schedules to conform to the requirements of the Fair Prices and Commissions Rule. In addition to requiring RJA and RJFS to repay approximately \$1.69 million in overcharges, each firm is required to calculate and repay additional overcharges from Nov. 1, 2010, through the date that each firm revised its schedule.

These actions were brought by David Klafter, Deputy Regional Chief Counsel, under the supervision of Andrew Favret, Regional Chief Counsel of the Department of Enforcement.

In settling these matters, RJA and RJFS neither admitted nor denied the charges, but consented to the entry of FINRA's findings.