

Disciplinary and Other FINRA Actions

Firm Suspended

Loeb Partners Corporation (CRD #10929, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and suspended from conducting any research analyst activities (including, but not limited to, issuing research reports) for 30 business days. The firm must also have one of the firm's officers certify, in writing to FINRA, that it has reviewed its written supervisory procedures regarding supervision relating to research analysts and research reports, and Trade Reporting and Compliance Engine (TRACE) reporting; and has established systems and procedures reasonably designed to achieve compliance with the laws, regulations and rules concerning those matters within 60 days.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted a principal to supervise the conduct of the firm's research analyst when he was not qualified to do so. The findings stated that the firm issued research reports that were not approved by a registered principal's signature or initial as NASD rules required, and failed to adopt or implement written supervisory procedures reasonably designed to achieve compliance with NASD rules regarding the supervision of research activity and the approval of research reports. The findings also stated that the firm engaged in a pattern and practice of reporting fixed income transactions late and over-reporting certain inter-dealer transactions to TRACE. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable TRACE rules.

The suspension from conducting any research analyst activities (including, but not limited to, issuing research reports) was in effect from November 14, 2007, through December 27, 2007. **(FINRA Case #2006003769501)**

Reported for January 2008

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

Firm Suspended, Individual Sanctioned

MidSouth Capital, Inc. (CRD #35039, Atlanta, Georgia) and Mark David Hill (CRD #1056054, Registered Principal, Marietta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was fined \$40,000, of which \$25,000 was jointly and severally with Hill, and suspended from approving any private securities transactions involving a hedge fund and/or a private investment partnership formed and/or managed by a firm representative registered with FINRA for six months. Hill was suspended from association with any FINRA member in any principal capacity for 20 days. Without admitting or denying the findings, the firm and Hill consented to the described sanctions and to the entry of findings that the firm, acting through Hill, failed to supervise and record a registered representative's private securities transaction activities in the manner NASD Rule 3040(c) required. The findings stated that the firm failed to record private securities transactions on its books and records and failed to report municipal securities transactions within the time period MSRB Rule G-14 prescribed. The findings also stated that the firm failed to adopt, maintain and enforce written supervisory procedures reasonably designed to achieve compliance with its trade reporting obligations under MSRB Rule G-14.

The firm's suspension is in effect from December 3, 2007, through June 2, 2008. Hill's suspension in any principal capacity was in effect from December 3, 2007, through December 22, 2007. (FINRA Cases #2006004243001/2006003959801)

Firm Fined, Individuals Sanctioned

I-TRADEdirect.com Corp. (CRD #18281, Boca Raton, Florida), Eric David Arlt (CRD #2306499, Registered Principal, Charlevoix, Michigan) and Brian Edward Sanders (CRD #2743309, Registered Principal, Wading River, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. The firm was also fined \$10,000, jointly and severally with Sanders. Arlt was fined \$25,000 and suspended from association with any FINRA member in any principal capacity for 60 days. Sanders was suspended from association with any FINRA member in any principal capacity for 10 business days. Without admitting or denying the findings, the firm, Arlt and Sanders consented to the described sanctions and to the entry of findings that the firm sold preferred shares of its parent company based on a private placement memorandum (PPM) that contained inaccurate or misleading statements, in that the PPM failed to adequately distinguish between the parent company and the firm, and thus created the impression that the parent company, rather than the firm—its primary asset—was, at that time, regulated by the Securities and Exchange Commission (SEC) and FINRA when, in fact, at no time was the parent company either registered with the SEC or a member of FINRA. The findings stated that the business plan attached to the PPM failed to include the current or past financial information related to the parent company, as well as certain non-financial information, such as the parent company's products, services, goals and strategies, and thereby failed to provide prospective investors with a sound basis for evaluating the facts with regard to an investment in the parent company. The findings also included that the firm made misrepresentations regarding past performance, and made an exaggerated and unwarranted claim or forecast. FINRA found that the firm, acting

through Arlt, represented to the Individual Retirement Account (IRA) custodian that the price of the parent company's preferred shares had increased in value since their initial issuance without informing the custodian that these valuations were arbitrary. FINRA also found that the firm, acting through Arlt, failed to establish and maintain a reasonable supervisory system to ensure due diligence in connection with the private placement and subsequent sales of the parent company's preferred shares to the public, and failed to maintain a reasonable system to train and supervise its representatives who solicited and sold the parent company's preferred shares. In addition, FINRA determined that the firm, acting through Sanders, failed to conduct an adequate due diligence investigation in connection with the parent company's private placement in order to ensure that it did not contain inaccurate or misleading statements and miscommunications to potential investors.

Arlt's suspension in any principal capacity is in effect from January 7, 2008, through March 6, 2008. Sanders' suspension in any principal capacity was in effect from December 17, 2007, through December 31, 2007. (FINRA Case #2005001745201)

Firms and Individuals Fined

American Securities Group, Inc. (CRD #43730, Boca Raton, Florida) and Paul Bouthillier Perkins (CRD #4000099, Registered Principal, Eustis, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Perkins were censured and fined \$15,000, jointly and severally. The firm was fined an additional \$25,000. Without admitting or denying the findings, the firm and Perkins consented to the described sanctions and to the entry of findings that the firm, acting through Perkins, permitted an unregistered associated person to act as the firm's chief compliance officer. The findings stated that the firm failed to timely update and amend its supervisory procedures to reflect that the task of reviewing correspondence, email and wire transfer information was delegated to registered principals at the firm's offices of supervisory jurisdiction (OSJs). The findings also stated that the firm published a Web site that did not meet the requirements of applicable securities laws, rules and regulations, in that the required information regarding money markets was missing, the Securities Investor Protection Corporation (SIPC) Web site address was missing, and the site contained unbalanced, incomplete and misleading information. The findings also included that the firm failed to conduct an independent test of its Anti-Money Laundering (AML) program as its procedures required, and failed to provide AML training to all appropriate personnel. (FINRA Case #E072005008602)

Hunter Scott Financial LLC (CRD #45559, Delray Beach, Florida) and Peter Alex Gouzos (CRD #1959666, Registered Principal, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$125,000, jointly and severally. Without admitting or denying the findings, the firm and Gouzos consented to the described sanctions and to the entry of findings that the firm, acting through Gouzos, failed to file, or to timely file, with FINRA statistical and summary information relating to customer complaints received by the firm that were required to be reported under NASD Rule 3070. The findings stated that the firm, acting through Gouzos, failed to file, or to timely file, amendments to Uniform Applications for Securities Industry License or Transfer (Forms U4) and Uniform Termination Notices

for Securities Industry Registration (Forms U5) disclosing the receipt of customer complaints or arbitrations. The findings also stated that the firm, acting through Gouzos, did not effectively enforce the firm's procedures regarding the prohibition on external email accounts. The findings also included that as the result of the supervisory deficiencies, the firm, acting through Gouzos, failed to maintain and preserve certain of its electronic communications as SEC Exchange Act Rule 17a-4 required. FINRA found that the firm, acting through Gouzos, failed to implement a written training plan to achieve compliance with the Firm Element of the Continuing Education Requirements, failed to conduct an annual internal inspection of its OSJ's activities, and permitted public customers to purchase securities in accounts that were supposed to be frozen pursuant to Section 220.8(c) of Regulation T without having cash on deposit to pay for the purchases. **(FINRA Case #2006003702101)**

Firms Fined

Associated Bond Brokers, Inc. (CRD #32114, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, acting in the capacity of a municipal securities broker's broker, and in connection with municipal securities transactions, it lowered the bid of the highest bidding broker-dealers to levels closer to the cover bid without the bidding broker-dealer's prior knowledge or consent. The findings stated that the firm did not inform the selling broker-dealer of the higher bid the highest bidding broker-dealer submitted, thereby depriving the selling broker-dealer of receiving a higher sale price. The findings also stated that the firm failed to establish, maintain and enforce adequate written procedures and systems to supervise its business as a broker's broker by not providing guidelines or policies for its registered representatives regarding the communication of competing bid information to bidding broker-dealers, and the firm's procedures did not provide a system that adequately monitored the information provided to broker-dealers during the bidding process. The findings also included that the firm failed to preserve, in an easily accessible place, its received and sent electronic communications, including inter-office memoranda and communications. **(FINRA Case #E052004018001)**

Banc One Securities Corporation (CRD #16999, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000, and ordered to pay \$46,231.53, plus interest, in restitution, to public customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system, including written procedures, reasonably designed to review and monitor its fee-based brokerage business. The findings stated that the firm offered a fee-based brokerage program called the ONE Investor Advantage to its customers, and while it informed its brokers that the program was appropriate for active traders who may find the program costs more economical than a standard commission paying account, the firm had no system or procedures reasonably designed to determine whether the program was appropriate for its customers. **(FINRA Case #2006006064101)**

Barclays Capital Inc. (CRD #19714, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report accurate trading information through the submission of electronic blue sheets in response to FINRA requests for information. The findings stated that the firm failed to include the short sale indicator for electronic blue sheet records. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning the submission of electronic blue sheet data. **(FINRA Case #20050030767-02)**

Direct Edge ECN, LLC (CRD #135981, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to correctly report orders to the Alternative Display Facility (ADF) or to report required order information to the ADF within 10 seconds of receipt of an order or any response to or action taken regarding an order. The findings stated that the firm failed to respond to orders received by direct electronic access or from another market participant within two or three seconds, respectively. The findings also stated that when the firm was presented with orders in NASDAQ securities or listed securities at its published bid or offer in an amount up to its published quotation size, it failed to execute the orders upon presentment and thereby failed to honor its published quotation. 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 NASD rules concerning NASD Rule 4300A. **(FINRA Case #20060046195-01)**

Dresdner Kleinwort Securities LLC (CRD #41957, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$95,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report last sale reports of transactions in eligible securities to the NASDAQ Market Center (NMC) for three months, accounting for more than three hundred million shares. **(FINRA Case #20050025649-01)**

Goldman Sachs Execution & Clearing, L.P. (CRD #3466, Jersey City, New Jersey) 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 reported execution reports to the Order Audit Trail System (OATS) that contained inaccurate, incomplete or improperly formatted data. **(FINRA Case #20060068246-01)**

Green Manning & Bunch, Ltd. (CRD #35120, Denver, Colorado) 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 retain all electronic mail communications relating to its business for a three-year period, and to maintain the communications for the first two years in an accessible place as the Securities Exchange Act of 1934 required. The findings stated that the firm failed to establish,

maintain and enforce a supervisory system and written supervisory procedures reasonably designed to achieve compliance with the requirements of SEC Rule 17a-4 and NASD Rule 3110 with respect to electronic communications related to the firm's business. **(FINRA Case #2007007504001)**

Investprivate, Inc. nka DPEC Capital, Inc. (CRD #103737, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that a registered representative at the firm engaged in the options business, which was considered a material change in the firm's business operations and required that the firm seek and receive advance approval through a Continuing Membership Application from FINRA prior to engaging in such business. The findings stated that the firm had no written procedures addressing the supervision of options transactions. **(FINRA Case #E102004050901)**

I-TRADEdirect.com Corp. (CRD #18281, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$60,000 and ordered to disgorge \$865.17, plus interest, to public customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it charged customer markups, markdowns or commissions that were not fair and reasonable. The findings stated that the firm failed to timely amend a Form U5 to report a customer complaint. The findings also stated that the firm failed to timely file with FINRA reports of disciplinary actions that the firm took against representatives, and failed to timely report statistical and summary information regarding customer complaints. The findings also included that the firm failed to keep and preserve a separate file for all customer complaints and grievances in its OSJ, and failed to keep and preserve documents associated with the complaints and grievances.

FINRA found that the firm failed to file any application for the approval of its material change in business operations prior to hiring additional registered representatives. FINRA also found that the firm received securities from customers and held the securities for short time periods in violation of its Membership Agreement, and opened a branch office but failed to promptly notify FINRA of such action. In addition, FINRA determined that the firm received checks from customers, but failed to prepare and maintain a blotter showing the received and forwarded checks. Moreover, the findings stated that the firm failed to maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations related to handling and reporting customer complaints, implementing material changes to its business operations and changes to its Membership Agreement. Furthermore, FINRA found that the firm's compliance system was not kept current, and its written supervisory procedures failed to address, or adequately address, requirements to file customer complaints and grievances, obligations to amend Forms U5 for customer complaints after receiving termination information and requirements to submit requests for material changes in business operations. **(FINRA Case #2006003853701)**

Lehman Brothers Inc. (CRD #7506, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to perform duties that required registration as a principal prior to his being registered with FINRA in that capacity. **(FINRA Case #2005003424802)**

Maximum Financial Investment Group, Inc. (CRD #40096, Southfield, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$23,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities, while failing to maintain the minimum required net capital. The findings stated that the firm prepared inaccurate net capital computations and filed Financial and Operational Combined Uniform Single (FOCUS) Part IIA Reports that were inaccurate in that, among other things, the reports inaccurately stated the firm's net capital. The findings also stated that the firm failed to timely file its annual audit to FINRA. **(FINRA Case #2005003406904)**

Multi-Financial Securities Corporation (CRD #10299, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory systems and procedures were not reasonably designed to detect and investigate the nature and extent of a registered representative's private securities transactions. The findings stated that the firm failed to detect the ongoing private securities transactions, to approve or disapprove the transactions, to supervise any approved transactions and to record them on its books and records. **(FINRA Case #2006004754301)**

Pritchard Capital Partners, LLC (CRD #100480, Mandeville, Louisiana) 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 issued research reports, one of which failed to disclose adequately the valuation methods used to determine the price targets or to disclose risks that may impede achievement of the price targets for the profiled stocks. The findings stated that most of the research reports failed to present required disclosures on the first page or to refer to which page the disclosures were found. The findings also stated that some of the research reports contained language that was conditional or indefinite in regard to certain required disclosure. The findings also included that the firm distributed research reports to institutional customers that other member firms produced without including the current applicable disclosures as they pertained to the firm. **(FINRA Case #2006003800501)**

Stanford Group Company (CRD #39285, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in connection with the offers and sales of certificates of deposit (CDs) a bank affiliate issued, it distributed sales literature that did not comply with FINRA advertising rules, in that it failed to disclose that the

affiliation between the firm and the bank could create a conflict of interest in connection with its offers and sales of the bank-issued CDs. The findings stated that the brochures failed to present fair and balanced treatment of the risks and potential benefits of a CD investment, failed to contain the name of the firm using the materials and contained misleading, unfair and unbalanced information. **(FINRA Case #2005002203701)**

Susquehanna Financial Group, LLLP (CRD #35865, Bala Cynwyd, Pennsylvania) 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 accepted customer short sale orders in securities, and for each order, failed to make an affirmative determination, or annotate an affirmative determination that the firm would receive delivery of the security or could borrow the security on the customer's behalf for delivery by settlement date. The findings stated that none of the executions of these orders resulted in a fail to deliver. **(FINRA Case #20041000185-01)**

Tripp & Co., Inc. (CRD #6967, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$30,000 and required to revise its written supervisory procedures regarding TRACE. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute a TRACE Participation Agreement prior to its participation in TRACE, and failed to report transactions in TRACE-eligible securities to TRACE that it was required to report. 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 NASD rules concerning TRACE. **(FINRA Case #20050016786-01)**

United Capital Markets., Inc. (CRD #40980, Key Biscayne, 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 conducted a securities business while failing to maintain the minimum required net capital. **(FINRA Cases #20050013606-01/20060064413)**

UVest Financial Services Group, Inc. (CRD #13787, Charlotte, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to take appropriate and timely action to correct customer IRA adoption agreements after it was discovered that the firm's operations personnel had cut and pasted customers' signatures onto new adoption agreements from outdated ones. **(FINRA Case #2006005565402)**

W.R. Hambrecht & Co., LLC (CRD #45040, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding best execution, trade and OATS reporting, and books and records requirements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of

findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to sufficiently memorialize the capacities in which the firm acted in transactions so that adequate written disclosures could be generated for customer confirmations. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning best execution, trade and OATS reporting, and books and records requirements. **(FINRA Case #20060055025-01)**

Individuals Barred or Suspended

John Douglas Audifferen (CRD #2053214, Registered Representative, Brooklyn, New York) was fined \$9,665, ordered to pay \$7,835 in restitution to a public customer, and barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Audifferen willfully caused his member firm to extend credit impermissibly to a public customer's cash account and willfully benefited from his firm's extension of credit to the customer. The NAC also found that Audifferen personally extended credit to the customer, impermissibly shared in the profits generated in the customer's account, and caused his firm to free ride in the customer's account in violation of Regulation T. The findings also stated that Audifferen willfully caused his firm to extend credit impermissibly in his own cash and margin accounts by paying for his securities purchases or for a margin deposit in the accounts with checks that were returned for insufficient funds, thereby willfully causing his firm to violate Regulation T. The findings also included that Audifferen failed to disclose a customer complaint on his Form U4.

This decision has been appealed to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(FINRA Case #C1020030095)**

Carol Joy Bouabid (CRD #4360646, Registered Representative, Brownsburg, Indiana) submitted an Offer of Settlement in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Bouabid's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Bouabid consented to the described sanctions and to the entry of findings that she failed to provide prompt written notice to her member firm that she was engaged in outside business activities for compensation. The findings stated that Bouabid testified falsely during a FINRA on-the-record interview regarding her outside business activities and the reason she left another member firm.

The suspension in any capacity is in effect from November 19, 2007, through November 18, 2009. **(FINRA Case #2005000029202)**

Justin Albert Carroll (CRD #3180028, Registered Representative, Waterloo, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Carroll consented to the described sanction and to the entry of findings that he caused the transfer of ownership of fixed annuities a public customer owned to an entity Carroll controlled without the customer's permission, knowledge or consent. The findings stated that Carroll caused \$133,000 to be withdrawn from the annuities, to be deposited into a bank account he controlled, and then removed \$35,000 from the account using checks he made payable to himself. **(FINRA Case #2006006077901)**

Denise C. Cassano (CRD #1472663, Registered Representative, Rowley, Massachusetts) 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, Cassano consented to the described sanction and to the entry of findings that she received \$70,500 from a public customer for investment purposes and failed to invest the funds as directed, thereby converting the funds to her own use and benefit. **(FINRA Case #2007007816001)**

Brandi Marcella Cobb (CRD #4731846, Registered Representative, Bakersfield, California) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cobb consented to the described sanction and to the entry of findings that she made withdrawals totaling \$5,000 from a public customer's personal checking account without the customer's knowledge, authorization or consent, using the funds for her own use and benefit. The findings stated that to facilitate the conversion, Cobb accessed the customer's account with an automatic teller machine (ATM) card she procured by forging the customer's name to an ATM replacement request application. **(FINRA Case #2006007544001)**

Karen Denise Curtis (CRD #3082768, Registered Representative, Fairhope, Alabama) 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. The fine must be paid either immediately upon Curtis' 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, Curtis consented to the described sanctions and to the entry of findings that she delegated a subordinate in her office to complete the computer-based Firm Element Continuing Education program on registered representatives' behalf.

The suspension in any capacity is in effect from November 19, 2007, through January 17, 2008. **(FINRA Case #2005003511201)**

Paul Edward Craycroft (CRD #3265122, Registered Representative, Prospect, Kentucky) 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 Craycroft'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, Craycroft consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from November 19, 2007, through May 18, 2008. (FINRA Case #2006006851801)

Thomas DelVecchio (CRD #4501074, Registered Representative, Providence, Rhode Island) 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, DelVecchio consented to the described sanction and to the entry of findings that he received \$7,000 from a public customer for investment purposes and failed to invest the funds as directed, thereby converting the funds to his own use and benefit. The findings stated that DelVecchio provided the customer with a document indicating that the funds were invested as agreed, when, in fact, they were not. (FINRA Case #2007008002701)

Kenneth Mark Doolittle (CRD #1017937, Registered Principal, Meridian, Idaho) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Doolittle consented to the described sanction and to the entry of findings that he caused his member firm to respond untimely to FINRA requests for information and willfully omitted material information from his Form U4 by failing to timely amend it. The findings stated that Doolittle permitted a registered representative of his member firm to engage in conduct for which registration was required while inactive due to failure to complete regulatory element continuing education.

The suspension in any capacity is in effect from December 3, 2007, through March 2, 2008. (FINRA Case #E0120040052-03)

Kathy Joy Gordon (CRD #1266881, Registered Principal, Snow Hill, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Gordon consented to the described sanctions and to the entry of findings that she engaged in private securities transactions without prior written notice to her member firm.

The suspension in any capacity is in effect from December 3, 2007, through March 2, 2008. (FINRA Case #2006006081501)

John T. Grady (CRD #4753871, Registered Supervisor, Hingham, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Grady consented to the described sanctions and to the entry of findings that he performed supervisory duties that required principal registration prior to being registered with FINRA in that capacity.

The suspension in any capacity was in effect from December 17, 2007, through December 31, 2007. (FINRA Case #2005003424801)

Phillip Michael Graff (CRD #2094581, Registered Representative, Elk Grove Village, Illinois) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the allegations, Graff consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed and neglected to give prompt written notice of his activities to his member firm. The findings stated that Graff falsified firm questionnaires by stating that he was neither engaged in outside business activities nor receiving compensation for outside business activities. The findings also stated that when confronted by his member firm, Graff denied being involved, and failed to provide his personal income tax returns to his firm and to respond to written questions from his firm.

The suspension in any capacity is in effect from January 7, 2008, through July 6, 2008. **(FINRA Case #2005003325801)**

Howard Richard Gurvitch (CRD #1371464, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$154,048, with \$144,048 representing disgorgement of compensation received from a third-party hedge fund advisor for customer referrals, and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Gurvitch'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, Gurvitch consented to the described sanctions and to the entry of findings that he referred public customers to a third-party hedge fund adviser without providing written notification to his member firm that he was participating in private securities transactions for compensation.

The suspension in any capacity is in effect from December 3, 2007, through June 2, 2008. **(FINRA Case #2007009419401)**

Herbert Edward Hupp Jr. (CRD #1091286, Registered Principal, Valparaiso, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hupp consented to the described sanction and to the entry of findings that he participated in private securities transactions, for compensation, and failed to give written notice to, and receive written approval from, his member firm prior to engaging in the transactions. The findings stated that Hupp misused \$25,000 from public customers that was intended for the purchase of securities but used the funds, without the customers' permission or knowledge, for his personal expenses and not for the customers' benefit. **(FINRA Case #2006005285901)**

Reginald M. Jones (CRD #4987482, Associated Person, Jersey City, New Jersey) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Jones consented to the described sanction and to the entry of findings that he created a score report that falsely indicated that he received a passing score on the general securities representative qualification examination when, in fact, he had not, and knowingly submitted the fictitious score report to his member firm. The findings stated that Jones

told his member firm the false score report was legitimate following an initial FINRA inquiry but admitted at a subsequent on-the-record interview that he had created the false report. **(FINRA Case #2007008248801)**

William Edward Jones (CRD #5309856, Associated Person, Tulsa, Oklahoma) 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, Jones consented to the described sanction and to the entry of findings that he misappropriated \$300 from his member firm's parent corporation for his own personal use and benefit by using a corporate debit card without the corporation's knowledge or consent. **(FINRA Case #2007009038001)**

John Richard Kuprianchik III (CRD #4185525, Registered Representative, Northport, 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. Without admitting or denying the findings, Kuprianchik consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account without the customer's and his member firm's prior written authorization. The findings stated that Kuprianchik sent an email to the customer that contained statements or claims that were exaggerated and misleading regarding a securities purchase recommendation.

The suspension in any capacity is in effect from December 3, 2007, through January 31, 2008. **(FINRA Case #2007008119001)**

Marat Lerner (CRD #5139590, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Lerner'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, Lerner consented to the described sanctions and to the entry of findings that he opened checking and savings bank accounts for fictitious customers through an affiliate of his member firm in order to meet monthly sales goals.

The suspension in any capacity is in effect from December 3, 2007, through December 2, 2008. **(FINRA Case #2006007508201)**

Craig Edward Massey (CRD #4076167, Registered Representative, Rotonda West, 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, Massey consented to the described sanction and to the entry of findings that he willfully failed to amend his Form U4 to disclose a material fact. The findings stated that Massey failed to respond to FINRA requests for information. **(FINRA Case #2007008374401)**

Jennifer Lee Metz (CRD #4272226, Registered Principal, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Metz consented to the described sanctions

and to the entry of findings that she misplaced applications for individual retirement accounts and checks from a public customer and failed to forward them to her member firm for processing. The findings stated that Metz discovered she had misfiled the applications and checks, changed the date on the checks, without the customer's knowledge or approval, and submitted the applications and altered checks for processing, causing the customer to incur additional costs.

The suspension in any capacity is in effect from December 3, 2007, through February 2, 2008. **(FINRA Case #2006005407301)**

Daniel William Nay II (CRD #1880466, Registered Representative, Galion, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Nay consented to the described sanction and to the entry of findings that he participated in private securities transactions, for compensation, and failed to give written notice to, and receive written approval from, his member firm prior to engaging in the transactions. The findings stated that Nay borrowed \$40,000 from a public customer in violation of his member firm's written procedures. The findings also stated that Nay declined to appear for a FINRA on-the-record interview. **(FINRA Case #2006005034801)**

Henry Paul Nemanich (CRD #2214298, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Nemanich consented to the described sanction and to the entry of findings that he misused public customer funds, in that he wired \$2,665,000 from the bank account for a limited liability limited partnership he controlled to his personal checking account, and used the proceeds contrary to the representations made to the customers in a private placement memorandum. The findings stated that Nemanich participated in private securities transactions, for compensation, without prior written notice to, and prior written approval from, his member firm. The findings also stated that Nemanich borrowed \$2.8 million from an elderly customer and stopped making monthly installment payments on the loan. The findings also included that Nemanich failed to respond to a FINRA request for documents and information. **(FINRA Case #2005003468701)**

Geoffrey Ortiz (CRD #1808280, Registered Representative, Malibu California) was barred from association with any FINRA member in any capacity. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Ortiz forged or caused to be forged two customers' initials that approved increased fees on public customer account applications, and was responsible for submitting the forged documents to his member firm. The findings further stated that Ortiz provided false and misleading information in response to NASD (nka FINRA) requests for information and during an on-the-record interview.

This decision has been appealed to the SEC. The bar is in effect pending consideration of the appeal. **(FINRA Case #E0220030425-01)**

David Thomas Owen III (CRD #1105997, Registered Representative, Hartville, 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 10 business days. Without admitting or denying the findings, Owen consented to the described sanctions and to the entry of findings that he borrowed \$12,000 from a public customer in contravention of his member firm's written procedures prohibiting its registered representatives from borrowing money from customers.

The suspension in any capacity is in effect from January 7, 2008, through January 18, 2008. (FINRA Case #2006007082901)

Kenneth Joseph Pujdak (CRD #3154417, Registered Principal, Greenville, South Carolina) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Pujdak engaged in free-riding by effecting transactions in a cash account where the cost of securities purchased were met by the sale of the same securities and as a result, caused his member firm to extend credit to him in violation of Regulation T. The findings stated that Pujdak failed to fully respond to FINRA requests for information and failed to appear for an on-the-record interview. (FINRA Case #20050022104-01)

Randall Benjamin Ram (CRD #2537574, Registered Representative, Pompano Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$26,286.60, which includes \$18,786.60 in disgorgement of commissions, and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Ram'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, Ram consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account without the customer's written authorization and his member firm's written acceptance of the account as discretionary. The findings stated that Ram effected excessive securities transactions in the account, using unsuitable margin levels, in a manner that was inconsistent with the customer's objectives.

The suspension in any capacity is in effect from November 19, 2007, through February 18, 2008. (FINRA Case #2005001698201)

Clark Alexander Reinhard (CRD #2224876, Registered Representative, Westfield, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 10 weeks. In light of Reinhard's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Reinhard consented to the described sanction and to the entry of findings that he sold interests in a hedge fund using a private placement memorandum and subscription documents that contained false and misleading information. The findings stated that Reinhard also used a marketing brochure that failed to provide a sound basis for evaluating a potential investment in the hedge fund, and failed to explain that hypothetical returns did not reflect applicable fees and charges. The findings also stated that the brochure compared hedge funds and mutual funds but presented an incomplete and unbalanced comparison of the two products,

and failed to disclose Reinhard's firm's name. The findings also included that Reinhard entered into settlement agreements with investors that contained a confidentiality clause that required each of the investors to keep the terms of the release strictly confidential and contained no provision allowing the investors to discuss the settlement terms with FINRA and other regulators.

The suspension in any capacity is in effect from December 17, 2007, through February 24, 2008. **(FINRA Case #2005000323702)**

Robert Arnold Reynolds (CRD #870159, Registered Representative, New London, Connecticut) 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, Reynolds consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information. **(FINRA Case #2006006886301)**

Rebecca Rhoden Sappington (CRD #3010342, Registered Principal, Orange Beach, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000, suspended from association with any FINRA member in any capacity for six months and barred from association with any FINRA member in any principal capacity. The fine must be paid either immediately upon Sappington's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Sappington consented to the described sanctions and to the entry of findings that she directed individuals under her supervision to complete the computer-based Firm Element Continuing Education program on registered representatives' behalf without any notice to, or authorization from, her member firm.

The suspension in any capacity is in effect from January 7, 2008, through July 6, 2008. **(FINRA Case #2005003511202)**

Rafael Jose Siero (CRD #2759065, Registered Principal, Martinez, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Siero'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, Siero consented to the described sanctions and to the entry of findings that he borrowed \$90,000 from a public customer contrary to his member firm's prohibition of registered representative borrowing from customers. The findings stated that Siero failed to make a single scheduled payment on the loan, although he did make some payments at unpredictable times and in varying amounts, eventually paying off the loan in full with associated interest expenses, late penalties and fees.

The suspension in any capacity is in effect from December 17, 2007, through March 16, 2008. **(FINRA Case #20060069502-01)**

Gary Dwight Sissel (CRD #867488, Registered Representative, Houston, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Sissel failed to respond to FINRA requests for information. The findings stated that Sissel engaged in private securities transactions with public customers by issuing promissory notes totaling \$432,500 and failed to provide written notice to his member firm. The findings also stated that Sissel failed to repay the customers when the notes matured. **(FINRA Case #2005001710701)**

Michael Lee Storey (CRD #2329188, Registered Representative, Goodyear, Arizona) 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, Storey consented to the described sanction and to the entry of findings that he received \$136,523 from public customers to purchase annuities, but failed to purchase the annuities or to return the funds to the customers. **(FINRA Case #2006006356101)**

Kenneth John Strachan (CRD #2663620, Registered Representative, Sunapee, New Hampshire) 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 six months. The fine must be paid either immediately upon Strachan'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, Strachan consented to the described sanctions and to the entry of findings that he signed a public customer's name on an annuity delivery receipt form in connection with the sale of a variable annuity without the customer's authorization or consent. The findings stated that Strachan failed to timely respond to FINRA requests for information.

The suspension in any capacity is in effect from December 3, 2007, through June 2, 2008. **(FINRA Case #2007008490301)**

John Kent Thurston (CRD #446692, Registered Principal, Palm Beach Gardens, 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 30 days. Without admitting or denying the findings, Thurston consented to the described sanctions and to the entry of findings that he signed customers' names to agreements his member firm used to designate asset managers for the customers' managed consulting accounts without their knowledge or consent. The findings stated that it was the customers' intention to designate the particular asset managers but Thurston executed the agreements without their permission.

The suspension in any capacity was in effect from December 3, 2007, through January 1, 2008. **(FINRA Case #2006005728201)**

John Joseph Triglia (CRD #2457892, Registered Principal, Smithtown, 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, Triglia consented to the described sanction and to the entry of findings that he assisted hedge fund companies in circumventing restrictions that mutual fund companies had imposed on their accounts by moving market timing transactions to other accounts so

that the hedge funds made \$2,045,263.23 in profits and Triglia made \$400,901.97 in management fees on the hedge fund accounts. The findings stated that Triglia failed to respond truthfully to FINRA requests for information and failed to produce requested documents. **(FINRA Case #E0420030634-04)**

Joel Michael Vanderhoof (CRD #4152196, Registered Principal, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Vanderhoof consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, without compensation, and provided his member firm with oral notice but failed to provide prior written notice.

The suspension in any capacity is in effect from December 17, 2007, through January 15, 2008. **(FINRA Case #2006005194501)**

Sean Michael Walters (CRD #2959663, Registered Representative, Wexford, 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, Walters consented to the described sanction and to the entry of findings that he engaged in a scheme involving the sale of bonds a corporation purportedly issued. The findings stated that Walters received \$285,000 from public customers to invest in the bonds, but instead, converted their funds for his own use and benefit. The findings also stated that Walters submitted a fabricated brokerage account statement to a mortgage company as part of a personal loan application by inserting his own name and address on a customer's account statement. **(FINRA Case #2007008948201)**

Michael Derek Weihrauch (CRD #3202712, Registered Principal, Delaware, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Weihrauch consented to the described sanction and to the entry of findings that he failed to amend his Form U4 to disclose a material fact. The findings stated that Weihrauch failed to respond to FINRA requests for information. **(FINRA Case #2006005917201)**

Gary Lee Wigand (CRD #4284982, Registered Supervisor, Fort Wayne, Indiana) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Wigand forged a notary public's signature of on a power of attorney that a customer of his member firm signed, and affixed a notary stamp to the power of attorney without the notary's knowledge and consent and without the notary's witnessing the signing of the document by the customer. The findings stated that Wigand failed to respond to FINRA requests for information. **(FINRA Case #2006005268101)**

Phillip Wesley Young (CRD #1747216, Registered Representative, Denton, Texas) submitted an Offer of Settlement in which he was fined \$12,500 and suspended from association with any FINRA member in any capacity for 75 days. The fine must be paid either immediately upon Young'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, Young consented to the described sanctions and to the entry of findings that he borrowed \$238,500 from public customers even though his member firm did not have written procedures allowing the borrowing and lending of money between registered persons and customers.

The suspension in any capacity is in effect from December 17, 2007, through February 29, 2008. **(FINRA Case #20060074277-01)**

Walter Yun (CRD #4668063, Registered Principal, Stevenson Ranch, 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, Yun consented to the described sanction and to the entry of findings that he engaged in outside business activities, for compensation, without prior written notice, or any notice at all, to his member firm. The findings stated that when Yun was questioned by his firm about his business activities, he made misrepresentations regarding any involvement, receiving compensation, distributing sales or marketing material, discussing the business activity with any individuals and knowing any firm customers that had invested in the company. The findings also stated that Yun settled customer complaints about their losses by giving the customers promissory notes without telling his firm about the customer complaints or purported settlements. The findings also included that Yun guaranteed customers against loss. FINRA found that Yun executed discretion in customer accounts without the customers' prior written authorization and his firm's prior written acceptance of the accounts as discretionary, and exercised discretionary authority without disclosing it to his firm. **(FINRA Case #2006006195001)**

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC as of November 30, 2007. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed the decisions. Initial decisions whose time for appeal has not yet expired will be reported in the next Regulatory Notices.

Justin F. Ficken (CRD #4059611, Registered Representative, Boston, Massachusetts) 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 Ficken'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. The sanctions were based on findings that Ficken refused to appear for a FINRA on-the-record interview.

This decision has been appealed to the NAC and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #C1120040006)**

Iftikhar Ul Haq (CRD #4212059, Registered Representative, Toms River, New Jersey) was barred from association with any FINRA member in any capacity and ordered to pay \$66,184.47, plus interest, in restitution to a public customer. The sanctions were based on findings that Haq effected securities transactions in a customer's account without the customer's knowledge, authorization or consent. The findings stated that Haq's trading activity in the customer's account was excessive in size and frequency in view of the customer's financial circumstances and investment objectives.

This decision has been appealed to the NAC and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #ELI2004026701)**

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 respondent before drawing any conclusions regarding the allegations in the complaints.

Joanna King Cheung (CRD #3058119, Registered Representative, Foster City, California) was named as a respondent in a FINRA complaint alleging that she received insurance premium refund checks and a title company check totaling \$610.35, and failed to deliver the checks to the insurance customers. The complaint alleges that Cheung deposited the checks in a bank account she maintained for the benefit of her member firm's insurance affiliate. The complaint also alleges that Cheung submitted a record to the insurance affiliate allocating the deposited amounts to a homeowner's policy or automobile policy in her name, but later provided funds to the insurance affiliate to reimburse the customers whose funds she misappropriated. The complaint further alleges that Cheung failed to respond to FINRA requests for an on-the-record interview. **(FINRA Case #20070082842-01)**

Scott Perry Hailperin aka Scott P. Halperin (CRD #1421253, Registered Representative, Maitland, Florida) was named as a respondent in a FINRA complaint alleging that he received \$7,000 from a public customer for investment purposes and failed to invest the funds as directed, but, instead, converted some of the funds to his own use and benefit. **(FINRA Case #2006005161001)**

RD Capital Group, Inc. (CRD #37470, San Juan, Puerto Rico) and Ramon Luis Dominguez (CRD #839486, Registered Principal, Isla Verde, Puerto Rico) were named as respondents in a FINRA complaint alleging that the firm, acting through Dominguez, sold United States Treasury Separate Trading of Registered Interest and Principal Securities (STRIPS) worth over \$33 million to public customers. The complaint alleges that Dominguez charged markups that were excessive and fraudulent and failed to disclose the amount of the markups to the customers, which resulted in unjust profits of over \$1.2 million. **(FINRA Case #E072005002901)**

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

Beerbaum & Beerbaum, Financial and Insurance Services, Inc.
Petaluma, California
(November 30, 2007)

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

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

Granite Associates, Inc.
Delray Beach, Florida
(November 20, 2007)

Individual Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees

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

Keith Gary Gerr
Waxhaw, North Carolina
(November 29, 2007)

Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to NASD Rule 8320

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

Robert Joseph Calamunci Sr.
Tinton Falls, New Jersey
(November 30, 2007 – December 17, 2007)

Grissel Maria Carbonell
Miami, Florida
(November 30, 2007)

Paul Jude Casella
Woodbury, New York
(November 9, 2007)

Mohamed Imran Hussain
Ozone Park, New York
(November 30, 2007)

Talbot Heber Lloyd
Draper, Utah
(November 30, 2007)

Dawn Anita Martin
Homewood, Illinois
(November 30, 2007)

Rooney Arun Sahai
Ridgewood, New Jersey
(November 30, 2007)

Individuals Barred Pursuant to NASD Rule 9552(h)

Wesley Arthur Bennett Jr.
Jersey City, New Jersey
(November 26, 2007)

John Mark Gorts
Boynton Beach, Florida
(November 29, 2007)

Mario Morales
Chicago, Illinois
(November 28, 2007)

Individuals Suspended Pursuant to NASD 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.)

David P. Gardner
New Rochelle, New York
(November 26, 2007)

Eric Martin Garwes
Savannah, Georgia
(November 30, 2007)

Donald Wayne Griffin
Birmingham, Alabama
(November 26, 2007)

Milton L. Hagelberger III
Sarasota, Florida
(November 26, 2007)

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

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

Daniel Scott Bookout
Greenwood, Indiana
(November 19, 2007)

David Allen Estes
Stafford, Virginia
(November 19, 2007)

Frank Foerster
New York, New York
(November 2, 2007)

Charles Rodney George
St. Louis, Missouri
(November 27, 2007)

Mohamed Imran Hussain
Ozone Park, New York
(November 19, 2007)

Danny Lee Kiick
Rohnert Park, California
(November 28, 2007)

Cary Andrew Prejean
Baton Rouge, Louisiana
(November 19, 2007)

Joseph Paul Ratti
Newton, New Jersey
(November 19, 2007)

Gilad Sartena
New York, New York
(November 2, 2007)

Christopher Eric Saxon

Indianapolis, Indiana
(November 19, 2007)

Steven Frederick Schaefer

Mars, Pennsylvania
(October 11, 2007 – November 9, 2007)

Kenneth Robert Schober

Philadelphia, Pennsylvania
(November 2, 2007)

Michael William Stephani

Holbrook, New York
(November 5, 2007)

Stephen Jefferson Sumner

Orlando, Florida
(November 28, 2007)

Jason A. Wands

Durham, North Carolina
(November 2, 2007)

FINRA Expels Franklin Ross, Inc. for Systemic Violations of Anti-Money Laundering Rules

Firm's Current and Former Presidents Fined, Suspended for Failing to Investigate and Report Numerous Suspicious Securities Transactions

The Financial Industry Regulatory Authority (FINRA) has expelled Franklin Ross, Inc. (FRI) of Princeton, NJ from FINRA membership for repeatedly violating anti-money laundering (AML) rules. FINRA also imposed fines and suspensions against two of the firm's principals—its former president, Mark G. Ross Jr., and its current president, Kevin K. Herridge. By federal statute, a firm must be a FINRA member in order to conduct a public securities business.

FINRA found that FRI repeatedly violated anti-money laundering (AML) rules by, among other things, failing to investigate and report numerous suspicious transactions; failing to obtain adequate background information on new customer accounts; failing to conduct an independent test of its AML program; and failing to provide AML training. FRI and Ross also violated supervisory, recordkeeping and registration provisions.

"Suspicious Activity Reports provide law enforcement with information that is critical for investigating and prosecuting money laundering, terrorist financing and other financial crimes," said Susan Merrill, FINRA Executive Vice President and Chief of Enforcement. "FRI's failures to investigate red flags allowed it to serve as a 'safe haven' for individuals seeking to capitalize on highly suspicious or illegal stock transactions without detection."

AML rules, as well as FRI's written procedures, mandated that the firm—under the direction of its AML Compliance Officers (Ross and then Herridge during the relevant period)—investigate "red flags" indicating possible suspicious activity and then file Suspicious Activity Reports (SARs) for suspicious customer activity and transactions. Notwithstanding the continuous pattern of suspicious activity presented by a number of the firm's customers, FRI, Ross and Herridge never complied with this important AML program requirement.

FINRA found that, at various times from February 2004 through September 2006, FRI's clientele included notorious stock promoters and others who had been barred by FINRA or disciplined by the Securities and Exchange Commission (SEC) or had criminal histories—including one customer who had been convicted for the sale of an illegal controlled substance and money laundering. The same individual had been previously convicted for his role in a "smurfing" scheme, a commonly used money-laundering technique involving the splitting of a large financial transaction into smaller transactions to avoid scrutiny by regulators and law enforcement.

FINRA further found that in at least a dozen instances, FRI customers sold large blocks of penny stocks that were linked to allegedly fraudulent schemes. The SEC had filed at least two enforcement actions charging federal securities laws violations involving penny stocks that were later sold through FRI and other firms. In one instance, an individual who had previously been barred by FINRA delivered over 1.8 billion shares of a penny stock issued by a company that was contemporaneously the subject of a pending, and publicly released, SEC complaint alleging manipulation and other securities laws violations. In the following 10-month period, this customer sold the shares for approximately \$8 million in 155 separate sales, wiring the proceeds out of his account after each sale.

FINRA also found that certain larger securities transactions effected through FRI had many hallmarks of suspicious activity, including journaling of securities into accounts followed by immediate liquidation, as well as numerous unexplained wire activities in customers' accounts that included wires to known tax havens. In some instances, customers deposited securities and/or funds into accounts that greatly exceeded their known income or resources.

FINRA found that FRI should have identified these transactions as suspicious. FRI had tools at its disposal to identify the transactions. For example, FRI's clearing firm provided it with exception reports that could have been used to detect many of the red flags. FRI, however, did not utilize those reports and never conducted an appropriate investigation or reported any of this activity. During the relevant period, FRI's annual gross revenues grew from approximately \$500,000 to \$2.5 million. FINRA also found that FRI and Ross violated supervisory, recordkeeping and registration provisions. For example, they failed to properly review the transactions and correspondence of the firm's registered representatives and conduct inspections of branch offices. Moreover, they allowed certain individuals who were not actively involved in the firm's securities business to "park" their securities registrations with FRI.

In addition, FINRA found that FRI failed to maintain and preserve internal e-mail communications relating to the firm's business as required by the federal securities laws and FINRA rules. From at least January 2004 through November 2005, FRI had no system, written procedures or policies relating to retention of electronic communications. Indeed, the firm did not maintain a central server for such communications. Instead, its registered representatives used their personal email accounts to transmit business-related messages to firm customers. As a result, FRI failed to maintain and preserve any electronic communications during that period. From November 2005 through March 2006, FRI also failed to enforce, with respect to the one representative in its Sarasota, FL branch office, its policy prohibiting the use of external email accounts for business related emails. As a result, many business-related emails sent to and from the Sarasota branch office were not otherwise retained by the firm.

In addition to expelling the firm, FINRA suspended Ross for two years in a principal capacity and 90 days in all capacities and fined him \$35,000. FINRA suspended Herridge for six months in a principal capacity and 30 days in all capacities and fined him \$25,000. FINRA also ordered both individuals to obtain substantial additional AML training over the next two years.

In concluding this settlement, FRI, Ross and Herridge neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

FINRA Orders Rafferty Capital Markets to Pay Over \$400,000 for Supervisory Failures Involving Late Trading, Deceptive Market Timing By Firm's Hedge Fund Customers

Firm Also Suspended From Opening New Mutual Fund Accounts for 90 Days

The Financial Industry Regulatory Authority (FINRA) has sanctioned Rafferty Capital Markets, LLC, of Garden City, NY for facilitating improper market timing practices and for failing to have an adequate supervisory system to prevent deceptive market timing and late trading, among other violations.

FINRA ordered Rafferty Capital to refrain for 90 days from opening new mutual fund brokerage accounts for any new or existing customers. The firm was also fined \$350,000 and ordered to pay \$59,605 in restitution to two mutual fund families in connection with customer profits derived from improper market timing. In addition, Rafferty Capital was ordered to review its procedures and certify that it has established systems and procedures to prevent late trading and deceptive market timing, to retain electronic communications, and to record the times of receipt and entry of mutual fund orders.

"Firms must implement systems to ensure that mutual fund orders processed after the market close reflect orders received from customers during regular trading hours if those customers are to receive the current day's prices—otherwise, they can gain an unfair advantage with these late trades" said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "In this case, Rafferty's personnel not only facilitated hedge fund customers' impermissible market timing but, in the case of one of the hedge funds, late trading by a hedge fund customer."

FINRA found that from about January 2001 through August 2003, the firm assisted six hedge fund customers in circumventing market timing restrictions and escaping detection by opening and using multiple related customer accounts, as well as by using different broker branch codes for market timing, among other methods.

From April 2001 through April 2002, the firm, acting through two brokers, permitted two hedge fund clients to continue market timing while circumventing attempts by mutual fund companies to block or restrict such trading. This misconduct resulted in approximately 118 additional mutual fund exchanges, yielding a net profit of about \$59,605 at the expense of long-term investors in the mutual funds.

According to FINRA, Rafferty Capital lacked procedures designed to ensure that brokers who received notices of restricted or rejected mutual fund trades would notify their supervisors or the compliance department. Additionally, there were no systems or procedures regarding how the firm should respond when receiving such notices.

FINRA also found that the firm failed to respond to warning signals that its brokers were engaged in improper market timing. Such warning signals included the number of rejected mutual fund trades, and the use of multiple customer account numbers and branch codes to facilitate market timing for the same customer.

The firm also failed to establish, maintain or enforce supervisory systems and written procedures reasonably designed to prevent and detect late trading. From April 2001 through June 2003, the firm allowed its brokers to enter approximately 859 mutual fund transactions after the 4 p.m. market close while the firm's records contained no indication that the orders were received before 4 p.m. Those trades processed after 4 p.m. received the current day's NAV. In one instance, one of the firm's brokers facilitated 20 late trades by one of the hedge fund customers over two separate days.

During its investigation, FINRA also found that during the period January 2001 through July 2003, Rafferty Capital failed to preserve and maintain copies of all e-mail communications relating to the firm's business, as required by the federal securities laws and FINRA rules. FINRA also found that the firm failed to create records accurately reflecting time of entry of 948 mutual fund orders during the period April 2001 through June 2003; create and preserve records of time of receipt of 26 mutual fund orders during the period May 2003 through June 2003; and maintain records of preliminary mutual fund orders from customers and originals of mutual fund orders that were changed or cancelled, including records relating to the cancellation of the orders. FINRA further found that the firm's written supervisory procedures failed to provide adequate guidance regarding order ticket memoranda to ensure compliance with regulatory requirements.

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

FINRA Fines Wachovia Capital Markets \$300,000 for Deficient Disclosures in Research Reports

Wachovia Omitted Numerous Required Conflict of Interest Disclosures, Used Inadequate Disclaimer Language

The Financial Industry Regulatory Authority (FINRA) has censured and fined Wachovia Capital Markets, LLC \$300,000 for violations of FINRA's research analyst conflict of interest disclosure rules.

"This case strikes at the heart of FINRA's research disclosure program, which was put into place in 2002 in part to combat incentives that could lead to biased research," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "These critical reforms require firms to provide investors with information about actual and potential conflicts of interest that could influence analysts' conclusions about investing in publicly traded companies. Wachovia failed to ensure that certain of its research reports contained this vital information."

FINRA found that from June 2004 to May 2006, Wachovia failed to include in 40 research reports a total of 56 disclosures concerning Wachovia's financial relationships with subject companies. In 20 of those reports, Wachovia failed to disclose that it managed or co-managed a public offering of securities issued by the subject company.

In other research reports, Wachovia failed to disclose that it received compensation from the subject company for investment banking services, that it owned an interest in the common stock of the company or that it was making a market in the securities of the company.

Additionally, FINRA found that from March 2004 to July 2007, in over 15,000 research reports, Wachovia included a disclaimer stating that the firm and its affiliates "may" own an interest in the securities of the subject company. This disclaimer is inconsistent with FINRA's requirement that firms affirmatively disclose whether they own one percent or more of the common equity stock of the subject company. By using this disclaimer, Wachovia ignored specific guidance set forth in Notice to Members 04-18, published in March 2004, which expressly instructs firms that the use of general disclaimers that are inconsistent with required disclosures violates FINRA's rules.

Wachovia also failed to adequately implement supervisory procedures concerning its research disclosures.

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