

Disciplinary and Other FINRA Actions

Firms Fined

AXA Advisors, LLC (CRD® #6627, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$250,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to keep accurate and complete records relating to its direct mutual fund business, and failed to have adequate systems, procedures and related written procedures to reasonably supervise the matching of records for its direct mutual fund business. **(FINRA® Case #2007008362001)**

Banesto Securities Inc. (CRD #131165, 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 transactions and failed to accurately report the execution times for transactions to the Trade Reporting and Compliance Engine™ (TRACE™). The findings stated that for the unreported transactions, the firm failed to report one side of the riskless principal transactions. The findings also stated that the firm inaccurately reported the execution times for transactions, as the reported execution times did not match the execution times on the firm's order tickets. The findings also included that the firm failed to maintain order tickets for corporate bond transactions. **(FINRA Case #2009016314901)**

Charles Schwab & Co., Inc. (CRD #5393, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions and block transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual. The findings stated that the firm failed to report information about such transactions to an RTRS portal within 15 minutes of the time of trade. **(FINRA Case #2008014972001)**

Reported for January 2010

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).

Commonwealth Equity Services, LLP (CRD #8032, Waltham, Massachusetts) 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 TRACE rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution time. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE rules. **(FINRA Case #2008014569301)**

E*Trade Clearing LLC (CRD #25025, 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 transmitted Reportable Order Events (ROEs) to the Order Audit Trail System (OATS™) that OATS rejected for context or syntax errors, and the firm failed to repair most of them. 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 corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. The firm transmitted New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report occurred prior to the receipt of the order, and the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. In addition, the firm failed to timely report ROEs to OATS. The findings also 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. The findings also included that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the NASD®/NASDAQ Trade Reporting Facility® (NNTRF). FINRA found that the firm failed to report certain short interest positions to NASD (nka FINRA) in a security for several months and in other months, submitted inaccurate short interest position reports to NASD. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. **(FINRA Case #2006004699901)**

Jesup & Lamont Securities Corp. (CRD #39056, New York, New York) submitted an Offer of Settlement in which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, despite its addition of a business activity that required a higher minimum net capital requirement under Securities and Exchange Commission (SEC) Rule 15c3-1, it failed to file an application with FINRA for approval of a material change in its business operations. The findings stated that, on a single date, the firm conducted a securities business while it maintained insufficient net capital, in that the firm failed to take an open contractual commitment charge for its participation in a firm commitment underwriting. **(FINRA Case #2007007255603)**

J.J.B. Hilliard, W.L. Lyons, LLC (CRD #453, Louisville, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$200,000 and required to place \$133,817 into a segregated, interest-bearing account for a period of five years to reimburse customers who can reasonably demonstrate that they made deposits to their firm accounts at a bank branch and that the firm failed to properly credit the deposits to their accounts. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to have an adequate supervisory system, including written supervisory procedures and a supervisory control system, to properly and timely identify customer checks deposited at affiliated bank branches and ensure that all customer check deposits were duly credited to the appropriate customer accounts. The findings stated that the firm escheated approximately \$133,616.65 in funds to the Commonwealth of Kentucky when it was unable to identify the proper customer accounts. The findings also stated that, as a result of the unidentified customer check deposits, the firm failed to make and keep accurate daily records of all receipts and disbursements of cash and other debits and credits in its books and records, including entries to an Escheatment Account. The findings also included that the firm understated its net capital charges and incorrectly calculated its Customer Reserve Formula. In addition, the findings included that the firm produced inaccurate month-end customer account statements, incorrectly liquidated certain customer fully paid securities, and failed to segregate some customers' fully paid securities, resulting in intra-day possession or control deficits.

FINRA found that the firm did not prepare required inter-company account reconciliations, failed to properly record certain aged unfavorable reconciliation differences and failed to conduct supervisory reviews of certain reconciliations and accounts. FINRA also found that the firm's supervisory procedures did not adequately ensure that its research analysts obtained the required approval for public appearances and provided proper disclosures during such public appearances. In addition, FINRA determined that the firm issued certain research reports that contained indefinite "may" language regarding future investment banking services that the firm expected to provide, did not include analyst certifications on the front page, contained front pages that did not specify the page or pages in the research report on which the analyst certifications were to be found, and incorrectly included the analyst certification information as part of the important disclosures. **(FINRA Case #2007009463801)**

Laidlaw & Company (UK) LTD. (CRD #119037, London, England) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$5,000, jointly and severally, and fined an additional \$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 retain email communications related to its business that were sent to and from non-firm email accounts that firm registered representatives working from one of its branch offices used, and failed to establish and maintain a system for supervisory review of those outside emails. The findings stated that the firm, acting through a registered principal, failed to develop a privacy policy or disseminate privacy notices required by SEC Regulation S-P to its customers. The findings also stated that the firm failed to maintain new account documents for some accounts and failed to maintain complete new account documents for other accounts that lacked customer

information. The findings also included that the firm failed to enforce its written supervisory procedures concerning the dissemination of a privacy policy and the collection and maintenance of complete new account forms. (FINRA Case #2007007315501)

Maple Securities U.S.A. Inc. (CRD #33947, Jersey City, New Jersey) 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 Regulation SHO. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, on numerous occasions, it accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account, without borrowing the security or entering into a *bona fide* arrangement to borrow the security, or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due, and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with Regulation SHO. (FINRA Case #2006007467101)

Miller Tabak + Co., LLC (CRD #47293, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$47,500 and required to revise its written supervisory procedures regarding use of qualified contingent trade modifiers, order handling, limit order display, limit order protection, market order protection, the One Percent Rule, best execution, the Three Quote Rule, anti-intimidation/coordination, trade reporting rules, short sales and threshold securities, reporting short sale indicators, trading during a trading halt, honoring quotes, entering quotes for exchange-listed or OTC™ equity securities, soft dollar provisions, operating outside Safe Harbor, OATS clock synchronization, OATS routed order information, books and records, and the use of multiple market participant identifiers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve brokerage order memoranda for a period of not less than three years, the first two in an accessible place. The findings stated that the firm failed to show the execution time, the order entry time, the order type, and terms and conditions on brokerage order memoranda; failed to show the customer name and account number on brokerage order memoranda; failed to show the contra side executing broker on its proprietary trading ledger for transactions; and failed to show the execution time on its proprietary trading ledger for one transaction. The findings also stated that the firm transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order that the destination member firm transmitted due to inaccurate, incomplete or improperly formatted data; failed to transmit ROEs to OATS; and transmitted reports to OATS that contained inaccurate account type codes. The findings also included that the firm failed to report the correct symbol indicating the capacity in which it executed transactions in reportable securities to the FINRA/NASDAQ Trade Reporting Facility (FNTRF), and failed to report the correct symbol indicating the capacity in which it executed transactions in reportable securities to the OTC Reporting Facility (OTCRF).

FINRA found that the firm failed to report one last sale report of a transaction in an OTC equity security to the OTCRF, and failed to report the correct execution time to the OTCRF in one late, last report of a transaction in an OTC equity security. FINRA also found that the firm failed to provide written notification disclosing its correct capacity in transactions to its customers and accepted short sale orders in equity securities from another person, or effected short sales in an equity security for its own account, without borrowing the security or entering into a *bona fide* arrangement to borrow the security, or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due, and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. In addition, FINRA determined that the firm's written supervisory procedures failed to provide for minimum requirements for adequate written supervisory procedures regarding use of qualified contingent trade modifiers, order handling, limit order display, limit order protection, market order protection, the One Percent Rule, best execution, the Three Quote Rule, anti-intimidation/coordination, trade reporting rules, short sales and threshold securities, reporting short sale indicators, trading during a trading halt, honoring quotes, entering quotes for exchange-listed or OTC equity securities, soft dollar provisions, operating outside Safe Harbor, OATS clock synchronization, OATS routed order information, books and records, and the use of multiple market participant identifiers. Moreover, FINRA determined that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning registration, educating personnel on anti-intimidation/coordination requirements, and OATS. Furthermore, FINRA found that the firm's supervisory system failed to designate an appropriately registered principal(s) with authority to carry out supervisory responsibilities with respect to trade reporting. FINRA also found that the firm failed to accept or decline transactions in reportable securities within 20 minutes after execution in the NNTRF and OTCRF that it had an obligation to accept or decline as the order entry identifier (OEID). (FINRA Case #2007011132901)

NASDAQ Execution Services, LLC (CRD #7270, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that an electronic communication network (ECN) that the firm operated executed short sale transactions and failed to report each of the transactions to the NASDAQ Market Center (NMC) with a short sale modifier. The findings stated that the ECN's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short sale transaction reporting, and the firm's written supervisory procedures regarding trade reporting were not reasonably designed to achieve compliance with reporting the correct short sale indicator. The findings also stated that another ECN the firm operated transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, and the firm failed to repair most of them. The findings also included that one ECN transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order that the destination member firm submitted due to inaccurate, incomplete or improperly formatted data. FINRA found that both ECNs

were registered market makers in securities, and when orders were presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size, the firm failed to execute the orders upon presentment and thereby failed to honor published quotations. **(FINRA Case #2006004491001)**

Newbridge Securities Corporation (CRD #104065, Ft. Lauderdale, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$37,500 and ordered to pay \$4,063.95, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold (bought) corporate bonds to (from) customers and failed to sell (buy) such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to report the correct price of the transaction to the FNTRF in last sale reports of transactions in designated securities, and failed to report the correct execution time to the FNTRF in one last sale report of a designated security transaction. The findings also stated that the firm failed to submit to the FNTRF, for the offsetting "riskless" portion of "riskless" principal transactions 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 to the FNTRF the correct symbol indicating the capacity in which it executed transactions in reportable securities.

FINRA found that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the reports contained inaccurate timestamps, omitted or contained inaccurate account type codes and omitted the time in force. In addition, FINRA determined that the firm failed to submit route and execution reports. FINRA also found that the firm failed to report the correct symbol indicating whether transactions were buy, sell, sell short or cross for transactions in reportable securities. **(FINRA Case #2007007600801)**

Prudential Bache Securities, LLC (CRD #127733, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report its short interest positions, and submitted incorrect short interest position reports, to NASD. **(FINRA Case #2006005116101)**

Ridge Clearing & Outsourcing Solutions, Inc. (CRD #13071, Lake Success, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and required to revise its written supervisory procedures regarding SEC Rules 203(a), 203(b) and NASD Rule 6130(d)(6). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a fail-to-deliver position at a registered clearing agency with respect to threshold securities for 13 consecutive settlement days and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity. The fail-to-deliver positions resulted from a customer's long sale of restricted securities under SEC Rule 144. The findings stated that the firm's supervisory system did not

provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning SEC Rules 203(a) and 203(b), and NASD Rule 6130(d)(6). **(FINRA Case #2006005104901)**

Rodman & Renshaw, LLC (CRD #16415, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures regarding SEC Rules 605 and 606 of Regulation NMS, the Three Quote Rule, and the books and records rules. 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 symbol indicating the capacity in which it executed transactions in reportable securities to the NMC. The findings stated that the firm failed to report last sale reports of transactions in reportable securities to the NMC, and transmitted reports to OATS that provided an inaccurate capacity. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning SEC Rules 605 and 606 of Regulation NMS, the three quote rule, and the books and records rules. The findings also included that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning the registration and qualification of personnel, limit order display, the quote dissemination rule, limit order protection, market order protection, the One Percent rule, best execution, the anti-intimidation/coordination rule, trade reporting, short sales, trading halts, backing away, locked and crossed markets, and maintaining identical quotes. **(FINRA Case #2006004790801)**

Southwest Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$54,500, required to pay \$23,394.08, plus interest, in restitution to customers, and to revise its written supervisory procedures regarding SEC Rules 203(a) and 203(b)(3). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a fail-to-deliver position at a registered clearing agency in a common stock, a threshold security, for 13 consecutive settlement days, and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning SEC Rules 203(a) and 203(b)(3). The findings also stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning NASD Rules 3350 and 6130(d)(6), and SEC Rules 200(g) and 203(b)(1) of Regulation SHO.

The findings also included that the firm failed to report Route Reports to OATS and reported Route or Combined Order/Route Reports with an inaccurate destination code. FINRA also found that the firm failed to report information regarding transactions effected in municipal securities to RTRS in the manner prescribed by Rule G-14, RTRS Procedures and the RTRS Users Manual, in that the firm failed to report information about such transactions within 15 minutes of the time of trade to an RTRS portal. In addition, FINRA determined that the firm sold (bought) corporate bonds to (from) customers, and failed to sell (buy) such bonds at a price that was fair, taking into

consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. Moreover, FINRA found that in pairs of transactions, the firm 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 broker, dealer or municipal securities dealer's best judgment as to the fair market value of the securities at the time of transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. **(FINRA Case #2006005101101)**

Sterne Agee Financial Services, Inc. (CRD #18456, Birmingham, Alabama) 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 OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its ROEs to OATS for a particular review period. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS. **(FINRA Case #2007009924201)**

Stoeve, Glass & Company Inc. (CRD #7031, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding TRACE 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 transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules regarding TRACE reporting. **(FINRA Case #2008013618001)**

Susquehanna Capital Group (CRD #29337, Bala Cynwyd, Pennsylvania) 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 did not include the "not held" condition. **(FINRA Case #2008015002701)**

TIAA-CREF Individual & Institutional Services, LLC (CRD #20472, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report quarterly statistical and summary information to FINRA regarding a substantial number of customer complaints. The findings stated that the firm failed to establish, maintain and enforce a supervisory system reasonably designed to identify, capture, analyze and report customer complaints that are required to be reported pursuant to NASD Rule 3070(c). The findings also stated that the firm failed to put adequate systems and procedures in place to ensure that all customer complaints were identified and

forwarded to the appropriate firm personnel, failed to adequately train all personnel who might potentially receive customer complaints regarding proper handling of complaints, and failed to ensure that sufficient guidance was given to personnel who were responsible for reviewing complaints to determine which complaints were reportable. (FINRA Case #2007011343301)

TD Ameritrade Clearing, Inc. (CRD #5633, Bellevue, Nebraska) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$47,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted ROEs to OATS that OATS rejected for context or syntax errors, and the firm failed to repair some of the rejected ROEs. 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. The findings also stated that the firm failed to timely report ROEs to OATS. (FINRA Case #2006006827301)

vFinance Investments, Inc. (CRD #44962, Boca Raton, Florida) 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 properly mark sell orders as short. The findings stated that the firm accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account without borrowing the security, or entering into a *bona fide* arrangement to borrow the security; or reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. (FINRA Case #2007009010101)

Individuals Barred or Suspended

Jessie Everett Airington (CRD #2097, Registered Principal, 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, Airington consented to the described sanctions and to the entry of findings that he executed transactions in a public customer's account using time and price discretion that the customer had previously verbally granted him, without reconfirming with the customer his desire to execute the transactions. The findings stated that Airington executed the transactions without the customer's prior written authorization and without his member firm's acceptance of the account as discretionary.

The suspension was in effect from December 7, 2009, through December 18, 2009. (FINRA Case #2008015428301)

Michael Lewis Axel (CRD #9164, Registered Representative, New York, 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, Axel consented to the described sanction and to the entry of findings that he misappropriated at least \$624,000 from customers of his member firm. The findings

stated that, without the customers' knowledge, authorization or consent, Axel initiated the issuance of checks from the customers' accounts, obtaining the checks ostensibly so that he could deliver them to the customers, and then forged the customers' signatures and cashed the checks or deposited the checks into his personal bank account. The findings also stated that Axel effected unauthorized transactions in customers' accounts without their knowledge, authorization or consent. The findings also included that Axel failed to appear for a FINRA on-the-record interview. **(FINRA Case #2007011308801)**

Randall Charles Barker (CRD #2474154, Registered Representative, Montrose, Colorado) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Barker misappropriated \$16,261.18 in insurance premium payments by intercepting customers' premium payments, depositing the payments into his personal bank account and using the funds for personal expenses. The findings stated that Barker failed to respond to FINRA requests for information and documents. **(FINRA Case #2008013441601)**

Stuart David Baron (CRD #3093975, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Baron consented to the described sanction and to the entry of findings that he converted approximately \$8,530 from a relative. The findings stated that Baron forged the relative's name on documents without her knowledge, permission or authorization in order to open a joint checking account and then signed her name on transfer forms without the relative's permission or authorization and transferred approximately \$8,530 from her Individual Retirement Account (IRA) to the joint account, using the funds for his personal use. **(FINRA Case #2008012408101)**

Kevin Patrick Brennan (CRD #3009014, Registered Principal, Garden City, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any principal capacity for six months. In addition, he undertakes to cooperate with any and all FINRA investigations. Without admitting or denying the findings, Brennan consented to the described sanctions and to the entry of findings that he failed to reasonably supervise and respond to warning signs that registered representatives were conducting and operating a securities business from an unregistered branch office without supervision. The findings stated that the representatives improperly solicited potential customers by telephone in connection with the offer of securities, made false representations, including unwarranted price predictions, omitted material facts, and used misleading telemarketing scripts that a registered principal had not approved. The findings also stated that Brennan failed to timely amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose material information.

The suspension is in effect from December 21, 2009, through June 20, 2010. **(FINRA Case #2007007358604)**

John Michael Campbell (CRD #1557202, Registered Principal, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any principal capacity for 90 days. In light of

Campbell's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Campbell consented to the described sanction and to the entry of findings that, as the Chief Compliance Officer of his member firm, he failed to establish, maintain and enforce an adequate supervisory system and adequate written supervisory procedures to detect and prevent excessive trading in customer accounts by the firm's registered representatives. The findings stated that the firm's written supervisory procedures required Campbell to conduct quarterly account reviews and determine the turnover ratios for the accounts, but Campbell failed to follow these procedures. The findings also stated that the written supervisory procedures were unreasonable because they failed to require the firm to take any specific action when a customer's account exceeded a specified turnover ratio. The findings also included that Campbell failed to reasonably supervise registered representatives who excessively traded in customer accounts and failed to respond to red flags presented by their excessive trading, exposing customers to losses that occurred as a result of excessive and unsuitable trading, improper use of discretion or other sales practice violations.

The suspension is in effect from December 7, 2009, through March 6, 2010. **(FINRA Case #2008011565202)**

Hugh Earl Cating (CRD #2240164, Registered Principal, Mooresville, North Carolina) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Cating failed to provide documents and information in response to FINRA requests and failed to provide testimony, which FINRA requested. The findings stated that Cating failed to execute a customer's order to cancel a variable annuity policy and to provide a refund within 10 days of receiving the policy, which caused the customer to incur surrender fees of approximately \$37,172. **(FINRA Case #2008013438301)**

Jeffrey Thomas Catlett (CRD #2724431, Registered Principal, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for 10 business days and suspended from association with any FINRA member in any principal capacity for 30 days. Without admitting or denying the findings, Catlett consented to the described sanctions and to the entry of findings that a member firm, acting through Catlett, permitted securities carried for customer accounts to be hypothecated and subject to a lien or claim by a third party without the customers' written consent. The findings stated that fully-paid customer securities, which were valued at \$106.2 million, were pledged to a bank by the firm to collateralize a loan, causing the hypothecated securities to be commingled with securities carried for the account of persons other than *bona fide* customers of the firm and causing the firm to violate Rules 8c-1 and 15c2-1 of the Securities Exchange Act of 1934.

The suspension in any capacity was in effect from December 21, 2009, through January 5, 2010. The suspension in any principal capacity is in effect from December 21, 2009, through January 19, 2010. **(FINRA Case #2009016913301)**

David Nelson Cherry (CRD #1521648, Registered Representative, Indianapolis, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$37,500, which includes \$32,495.76 in disgorgement of commissions, and suspended from

association with any FINRA member in any capacity for seven months. The fine must be paid either immediately upon Cherry'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, Cherry consented to the described sanctions and to the entry of findings that he participated in the sale of Universal Lease Programs (ULPs) to public customers, received \$32,495.76 in commissions, and failed to provide written notice to his member firms and obtain written approval from the firms to participate in private securities transactions. The findings stated that Cherry submitted an annual regulatory questionnaire to one of his member firms that contained a statement that he had not sold or solicited any investment products or non-securities investment products, which was false.

The suspension is in effect from December 7, 2009, through July 6, 2010. **(FINRA Case #2009016709003)**

Tracy L. Clifford (CRD #2242393, Registered Supervisor, Fishers, 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, Clifford consented to the described sanction and to the entry of findings that he borrowed \$150,000 from customers in violation of his member firm's policy and without disclosing his activities to the firm. The findings stated that Clifford's member firm settled with the clients for \$156,611.24. The findings also stated that Clifford failed to respond to FINRA requests for documents and information. **(FINRA Case #2008015218401)**

Michael Gerald Delano III (CRD #2205315, Registered Representative, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Delano consented to the described sanction and to the entry of findings that he was given the power of attorney over a deceased friend's estate by the deceased's brother and was requested to handle the \$50,000 in life insurance proceeds. The findings stated that Delano deposited the funds into his personal bank account and used the majority of the funds for his personal expenses without the brother's consent. The findings also stated that Delano represented to the brother that he had invested the life insurance proceeds into an annuity on the brother's behalf. **(FINRA Case #2008013543001)**

Jeffrey Paul Dungan (CRD #4387877, Registered Representative, Fulton, Missouri) 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 Dungan'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, Dungan consented to the described sanctions and to the entry of findings that he created and disseminated a false proof of insurance document and inserted a false policy number on the document in order to assist a customer, whose commercial insurance application was never filed or submitted due to

an administrative error at Dungan's member firm. The findings stated that Dungan should have known that the customer and its bank would rely on the representations in the document.

The suspension was in effect from December 7, 2009, through January 6, 2010. **(FINRA Case #2008015824001)**

Daphne Michelle Easley (CRD #4509549, Associated Person, Canyon Country, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Easley misappropriated approximately \$6,500 in funds from her member firm by ordering approximately \$6,500 in gift checks, which were used by her member firm to reward employees, and converting the gift checks she ordered without authorization for her own use and benefit. **(FINRA Case #2008013474501)**

Jeffery Michael Engler (CRD #4805972, Registered Representative, Marana, 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, Engler consented to the described sanction and to the entry of findings that, while associated with a member firm and employed by its affiliated insurance company, he completed and submitted e-Life Insurance Applications in the names of applicants, listing his insurance agency address as the applicants' residence address rather than their actual residence addresses and signed the applicants' names to the applications. The findings stated that Engler committed these acts without the applicants' knowledge or consent, and received commissions totaling \$16,212 for these transactions. The findings also stated that Engler failed to provide FINRA with requested information. **(FINRA Case #2009016679901)**

Vincent Joseph Farrugia Jr. (CRD #2472598, Registered Representative, Lawrenceville, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Farrugia'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, Farrugia consented to the described sanctions and to the entry of findings that he exercised discretion in effecting transactions in a customer's account without the customer's prior written authorization and his member firm's prior written acceptance. The findings stated that Farrugia made unsuitable investment recommendations to the customer to invest in penny stocks and other speculative securities without a reasonable basis, given the customer's financial condition and investment objectives.

The suspension is in effect from December 7, 2009, through April 6, 2010. **(FINRA Case #2007011808301)**

Antonio Garcia (CRD #5523844, Registered Representative, Key Biscayne, 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, Garcia consented to the described sanction and to the entry of findings that he failed to provide testimony as requested by FINRA. **(FINRA Case #2009017418601)**

Benjamin Gideon Geller (CRD #2405428, Registered Supervisor, West Bloomfield, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Geller'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, Geller consented to the described sanctions and to the entry of findings that he exercised discretion and effected numerous transactions in a customer's account without obtaining written authority. The findings stated that when Geller placed the trades, he designated them as "unsolicited" although the trades were "solicited," causing his member firm's books and records to be inaccurate.

The suspension is in effect from December 7, 2009, through March 6, 2010. **(FINRA Case #2007011920901)**

Brian Havens (CRD #4139947, Registered Principal, Woodlynne, New Jersey) 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 18 months. The fine must be paid either immediately upon Havens' 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, Havens consented to the described sanctions and to the entry of findings that he falsified the dates on account opening documents and bank checks without the customers' knowledge or consent. The findings stated that customers gave Havens checks totaling \$23,190.24 to purchase shares in mutual funds, and he failed to execute the customers' orders on a timely basis. The findings also stated that the customers complained to Havens about his failure to invest their funds and Havens settled the customers' complaints by paying the customers but failed to report the complaints to his member firm or seek its approval to settle the matters.

The suspension is in effect from November 16, 2009, through May 15, 2011. **(FINRA Case #2008015121101)**

Raymond Al Herrera (CRD #1978708, Registered Representative, Detroit, Michigan) 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 Herrera'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, Herrera consented to the described sanctions and to the entry of findings that, while handling a customer's accounts, he invested the accounts in various securities, which were purchased on margin and the majority of which were low-priced and/or volatile shares of companies with no profits and little or no revenues, resulting in the customer being forced to sell the majority of her shares to satisfy margin calls. The findings stated that the customer lost approximately 60 percent of the funds she invested with Herrera, and Herrera paid the customer \$55,000 pursuant to a settlement reached through mediation. The findings also stated that Herrera recommended and effected purchases of speculative securities without having

reasonable grounds for believing that the recommendations were suitable for the customer in light of her investment objectives, financial situation and needs.

The suspension is in effect from November 16, 2009, through February 15, 2010.
(FINRA Case #2008013358001)

Richard John Iavecchia (CRD #1438990, Registered Representative, Horsham, Pennsylvania) was fined \$3,500 and suspended from association with any FINRA member in any capacity for 60 days. The fine shall be due and payable on Iavecchia's return to the securities industry. The sanctions were based on findings that Iavecchia failed to inform his member firm of brokerage accounts, in which he had a financial interest, that were opened in his wife's name at other firms. The findings stated that, rather than disclose the existence of those accounts, as he was required, Iavecchia falsely answered "not applicable" to questions pertaining to the outside brokerage accounts on his firm's compliance questionnaires. The findings also stated that Iavecchia failed to inform the executing firms of his association with his member firm and made material misrepresentations on a new account document that he filled out for one of his wife's outside accounts.

The suspension is in effect from December 7, 2009, through February 4, 2010.
(FINRA Case #2007009425301)

Jan Kenneth Laux (CRD #3210619, Registered Representative, Pittsfield, Maine) 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 Laux' 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, Laux consented to the described sanctions and to the entry of findings that he signed customers' names on account-related documents without the customers' authorization or consent. The findings stated that the documents included new account applications and various forms related to transactions previously authorized by the customers.

The suspension is in effect from December 7, 2009, through December 6, 2010.
(FINRA Case #2008015071401)

Darren Kai Yun Lee (CRD #5622342, Associated Person, Waipahu, Hawaii) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Lee'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, Lee consented to the described sanctions and to the entry of findings that he willfully made false statements with respect to material facts on his Form U4 and failed to respond to FINRA requests for information.

The suspension is in effect from December 7, 2009, through December 6, 2011.
(FINRA Case #2008016450001)

Douglas Milton Lounsbury (CRD #1163614, Registered Representative, Long Beach, 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 four months. Without admitting or denying the findings, Lounsbury consented to the described sanctions and to the entry of findings that he accepted compensation from an outside business activity without providing written notice of such compensation to his firm, and completed and submitted questionnaires to his firm in which he falsely indicated that he was not receiving outside compensation without prior approval. The findings stated that Lounsbury thereafter disclosed to his manager that he had been receiving compensation as trustee for the customer's trust and repaid the trust the entire amount he had received as payment, plus interest.

The suspension is in effect from December 7, 2009, through April 6, 2010. **(FINRA Case #2007009655101)**

Robert Lee Mandeville (CRD #2662306, Registered Representative, Newport Beach, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$35,000 and suspended from association with any FINRA member in any capacity for five months. The fine must be paid either immediately upon Mandeville'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, Mandeville consented to the described sanctions and to the entry of findings that he executed unsuitable and unauthorized trades in a customer's account that were inconsistent with the customer's written investment guidelines. The findings stated that Mandeville made discretionary trades in the customer's account without written authorization.

The suspension is in effect from December 7, 2009, through May 6, 2010. **(FINRA Case #2008012644601)**

Kevin Paul McCaffrey (CRD #4130994, Registered Representative, Grand Rapids, Michigan) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, McCaffrey consented to the described sanctions and to the entry of findings that he signed a customer's name to a new fixed annuity application and a Substantially Equal Periodic Payments Form without the customer's knowledge or consent, then submitted them to his member firm for processing. The findings stated that McCaffrey sold securities from the customer's account without her knowledge or consent.

The suspension is in effect from December 7, 2009, through March 6, 2010. **(FINRA Case #2007011324701)**

Timothy E. Nenoff (CRD #4883354, Registered Representative, Wheaton, 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, Nenoff consented to the described sanction and to the entry of findings that he wrote checks from his checking account totaling \$660 even though he knew that he had inadequate funds in the account to clear the checks, deposited the checks into his savings account, and withdrew most of the funds by ATM. The findings stated that

Nenoff admitted to FINRA in writing that he engaged in check kiting. The findings also stated that Nenoff failed to respond to FINRA requests for information. **(FINRA Case #2008012437501)**

Shellie Lin Newton (CRD #2630770, Registered Supervisor, Trenton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Newton consented to the described sanction and to the entry of findings that she used her position as an operations manager to misappropriate more than \$10,000 from her member firm. The findings stated that Newton entered false deposit amounts into her brokerage account at her firm, thereby creating artificial balances in the account, transferred money from the brokerage account to her personal checking account, and used the funds for personal purposes. The findings also stated that, in an attempt to conceal the false deposits, Newton deposited checks into her brokerage account and made an online transfer knowing at the time that her checking account lacked funds to cover the checks, and used an ATM to intentionally enter an amount to be deposited that was greater than the check included with the deposit. The findings also included that Newton, by knowingly entering fictitious deposit amounts into her brokerage account at her firm, created artificial balances in it and caused her firm's books and records to be false. **(FINRA Case #2008014143701)**

Rene Francisco Palacios (CRD #3188994, Registered Representative, Cabo Rojo, Puerto Rico) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Palacios misused \$62,750 in customer's funds by opening a new bank account in a customer's name, funding the new account with a deposit of \$62,750 from the customer's brokerage account maintained at Palacios' member firm, and forged the customer's signature on new account documents and checks drawn from the fraudulent account. The findings stated that Palacios admitted to his firm that he misused the customer's funds and forged the customer's signature. The findings also stated that Palacios failed to appear for FINRA on-the-record interviews. **(FINRA Case #2007011375301)**

George Thomas Parry Jr. (CRD #1259983, Registered Representative, Akron, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 60 days. Without admitting or denying the findings, Parry consented to the described sanctions and to the entry of findings that he executed trades in a customer's accounts without the customer's prior knowledge, authorization or consent. The findings stated that Parry exercised discretionary trading authority in numerous other customers' accounts by entering stop orders without notifying the customers or without written discretionary trading authority.

The suspension is in effect from December 21, 2009, through February 18, 2010. **(FINRA Case #2007011369301)**

Christopher Joseph Perrott (CRD #4188299, Registered Principal, St. Cloud, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Perrott failed to appear for FINRA on-the-record testimony. **(FINRA Case #2009017496501)**

Lawrence Lathan Powell Jr. (CRD #4899001, Registered Representative, Huntington, 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, Powell consented to the described sanction and to the entry of findings that he misappropriated \$48,780 from elderly customers' accounts. The findings stated that, while employed with his member firm's affiliate bank as a personal banker, Powell caused the bank to issue debit cards in the customers' names without their knowledge or authorization, accessed their accounts using the fraudulently obtained debit cards and withdrew funds, and facilitated the withdrawal of funds by others, from the customers' accounts. The findings also stated that Powell failed to appear for FINRA on-the-record interviews. **(FINRA Case #2008012476501)**

Joseph Ricupero (CRD #1457028, Registered Principal, Bayside, New York) was barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following the appeal of a Hearing Panel decision. The sanction was based on findings that Ricupero failed to respond to requests for information. The Hearing Panel also found that Ricupero failed to file, on his member firm's behalf, Financial and Operational Combined Uniform Single (FOCUS™) reports, an annual audit report, and the required application with FINRA for approval of the firm's transfer of assets to another member firm. The Hearing Panel declined to impose sanctions for these violations because Ricupero was barred for the failure to respond violation.

This decision has been appealed to the SEC, and the bar is in effect pending consideration of the appeal. **(FINRA Case #2006004995301)**

Carlos Daniel Rivera (CRD #5079860, Registered Representative, Bayonne, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Rivera failed to disclose to his member firm an outside brokerage account that he opened after his firm expressly told him that he could not maintain outside brokerage accounts that he opened prior to his employment with the firm. The findings stated that Rivera forged a letter that purported to be from an employee of his firm, instructing the firm where he maintained an outside brokerage account to lift trading restrictions on his newly opened, undisclosed account. **(FINRA Case #2007010600101)**

James Whitfield Robison (CRD #4663951, Registered Representative, Clovis, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Robison consented to the described sanction and to the entry of findings that he falsified customers' signatures on account-related documents without their knowledge or authorization by tracing their signatures or reusing their signatures on other documents. The findings stated that Robison admitted that he falsified customers' signatures and had a practice of falsifying customers' signatures on delivery assurance forms for financial plans created after the initial plan was created and delivered because he did not think that the customers cared whether they received the subsequent plans. The findings also stated that Robison failed to respond to FINRA requests for information. **(FINRA Case #2008014895001)**

Robert Kenneth Roeding (CRD #4561756, Registered Representative, Bellevue, 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 three months. The fine must be paid either immediately upon Roeding'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, Roeding consented to the described sanctions and to the entry of findings that he forged public customers' signatures to illustrations reiterating the possible benefits of insurance policies and signed the illustrations, falsely certifying that he presented the information contained in the illustrations to the customers and that he did not make statements that were inconsistent with the illustrations. The findings stated that Roeding then submitted the illustrations to his member firm's affiliated insurance company for processing.

The suspension is in effect from November 16, 2009, through February 15, 2010. **(FINRA Case #2008015981701)**

Eugene Francis Roesser Jr. (CRD #1074726, Registered Representative, North Potomac, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Roesser consented to the described sanctions and to the entry of findings that he mismarked customer order tickets as unsolicited when, in fact, the orders were solicited, causing his firm's books and records to be inaccurate. The findings stated that Roesser mismarked the orders rather than obtaining the necessary supervisory approval to solicit transactions in securities for which his firm did not have a research opinion. The findings also stated that Roesser engaged in discretionary trading in customers' accounts without their written authorization and without his firm having designated the accounts as discretionary.

The suspension was in effect from December 21, 2009, through January 12, 2010. **(FINRA Case #2007009463401)**

John Michael Elias Saad (CRD #2185911, Registered Principal, Atlanta, Georgia) 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 Saad submitted false expense reimbursement reports and receipts to his member firm's parent company, which resulted in \$1,144 in payments that were made to him, to which he was not entitled, thereby misappropriating firm funds.

This decision has been appealed to the SEC, and the bar is in effect pending consideration of the appeal. **(FINRA Case #2006006705601)**

Yajaira Santos (CRD #4791361, Associated Person, Carolina, Puerto Rico) 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, Santos consented to the described sanction and to the entry of findings that she completed and submitted a \$7,000 credit advance request on a bank line of credit belonging to a firm customer without his knowledge or consent. The findings stated that the bank processed the request, issued a \$7,000 check made payable to the

customer which Santos retrieved, endorsed the check and deposited the funds into a separate bank account over which she had signature authority. The findings also stated that Santos later covered the line of credit advance by initiating unauthorized securities sales in the customer's securities account. **(FINRA Case #2008015473301)**

Ralph Matthew Shino (CRD #1380293, Registered Principal, Scottsdale, Arizona) was suspended from association with any FINRA member in any principal capacity for nine months for late filing and failing to file NASD Rule 3070 reports and amendments to Forms U4 and Uniform Termination Notices for Securities Industry Registration (Forms U5), with an additional suspension in any principal capacity for three months for permitting a branch office to operate without a principal. The suspensions shall run consecutively. The sanctions were based on findings that Shino failed to file, or timely file, NASD Rule 3070 reports and amendments to Forms U4 and U5. The findings stated that Shino permitted a branch office with more than three representatives to transact an options business without having a registered options principal or limited principal-general securities sales supervisor as the principal office supervisor.

The suspensions are in effect from November 16, 2009, through November 15, 2010. **(FINRA Case #E3A2005003702)**

Justin C. Sidaway (CRD #5001842, Registered Representative, Waterford, Michigan) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Sidaway accessed the systems of a bank affiliate of his member firm to obtain information regarding a customer and his retail bank account and, without the customer's knowledge or authorization, used the customer's personal account information to forge the customer's signature and complete withdrawals totaling \$11,500 for his personal use, thereby converting the funds. The findings stated that Sidaway failed to respond to FINRA requests for information. **(FINRA Case #2008013305801)**

James Edward Smalley (CRD #5471377, Associated Person, Portland, Oregon) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Smalley failed to respond to FINRA requests for information and willfully failed to disclose material facts on his Form U4. **(FINRA Case #2008012666801)**

James Scott Stanley (CRD #722614, Registered Representative, Oklahoma City, Oklahoma) 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 Stanley'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, Stanley consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without providing written notice to his member firm. The findings stated that Stanley did not execute the transactions through his member firm's affiliated insurance company as the firm's compliance procedures required.

The suspension is in effect from December 7, 2009, through June 6, 2010. **(FINRA Case #2007009216001)**

Scott Ryan Tischler (CRD #3248953, Registered Representative, Richmond, Virginia) was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. Tischler withdrew his appeal to the NAC. The sanctions were based on findings that Tischler borrowed \$67,000 from a public customer contrary to his member firm's prohibition of registered representatives borrowing money from customers. The findings stated that Tischler completed, signed and submitted annual firm compliance questionnaires in which he failed to disclose the loans from the customer.

The suspension is in effect from November 16, 2009, through November 16, 2010. **(FINRA Case #2007008370701)**

David Alan Tucker (CRD #3212328, Registered Representative, Port Orange, 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 20 days. Without admitting or denying the findings, Tucker consented to the described sanctions and to the entry of findings that he engaged in radio broadcasts during which he made statements which were misleading and omitted material information, failed to provide a balanced presentation, and/or were exaggerated, unwarranted and promissory. The findings stated that Tucker placed a print advertisement in a local newspaper that failed to provide a sound basis for certain claims. The findings also stated that Tucker engaged in the public radio broadcasts and placed the print advertisement without a firm registered principal's approval.

The suspension was in effect from December 21, 2009, through January 9, 2010. **(FINRA Case #2008014583501)**

Thailia Alisa Tucker (CRD #1727554, Registered Principal, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Tucker consented to the described sanction and to the entry of findings that she misappropriated approximately \$847,188.87 from customers' accounts at her member firm and used the funds for her own use and benefit. The findings stated that to facilitate her improper use and misappropriation of customer funds, Tucker caused international customers' accounts to be removed from an abandoned status, caused the addresses for the accounts to be changed to addresses that she controlled, effected unauthorized sales of securities in the customers' accounts, forged Letters of Authorization (LOAs) and Wire Transfer Agreements (WTAs) to transfer funds out of the customers' accounts, and approved and processed the fraudulent LOAs and WTAs. The findings also stated that Tucker's conduct caused her firm to maintain inaccurate books and records. The findings also included that, to make cash available, Tucker sold securities in several accounts without the customers' knowledge or authorization, then transferred the proceeds to herself through relatives by wire or check. FINRA found that Tucker failed to respond to FINRA requests for information and failed to appear for an on-the-record interview. **(FINRA Case #2007011330602)**

Shaniqua N. White (CRD #5337573, Registered Representative, Bronx, New York) 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, White consented to the described sanction and to the entry of findings that she converted

\$1,800 from a customer by creating a temporary ATM card in the customer's name without the customer's permission or consent, and used the unauthorized ATM card to withdraw \$1,800 from the customer's bank account for her own use and benefit. The findings stated that White failed to respond to FINRA requests for information and documents and to appear for a FINRA on-the-record interview. **(FINRA Case #2008015003001)**

Decision Issued

OHO issued the following decision, which has been appealed to or called for review by the NAC as of November 30, 2009. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Notices.

Kale Edgar Evans (CRD #2236466, Registered Supervisor, San Diego, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Evans engaged in unsuitable and excessive trading in an 18-year-old customer's account without reasonable grounds to believe the trades were suitable based on the customer's age, lack of investment experience, financial circumstances, objectives and her express directive that her money not be exposed to risk. The findings stated that Evans gave the customer a \$35,000 check as a settlement without his member firm's knowledge or consent. The findings also included that Evans misappropriated approximately \$127,450 from the customer's savings account and used the monies for his own purposes. FINRA found that Evans failed to observe high standards of commercial honor and just and equitable principles of trade by engaging in an unethical business-related course of conduct.

This decision has been appealed to the NAC. The sanctions are not in effect pending consideration of the review. **(FINRA Case #2006005977901)**

Complaints Filed

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

Esther Esparza Garcia (CRD #4579816, Registered Representative, Las Cruces, New Mexico) was named as a respondent in a FINRA complaint alleging that she misappropriated \$2,531.91 in customers' property casualty insurance premium payments by depositing the funds into a checking account that she controlled and using the funds for her own benefit and use. The complaint alleges that Garcia failed to appear for FINRA on-the-record interviews. **(FINRA Case #2008014615401)**

EKN Financial Services, Inc. (CRD #113525, Woodbury, New York) was named as a respondent in a FINRA complaint alleging that the firm, in effecting retail corporate bond transactions, sold from its own account to its retail customers at prices that were

not fair taking into consideration all relevant circumstances, in that the firm failed to charge retail customers a fair and reasonable markup. The complaint alleges that the firm failed to preserve, for a period of not less than three years, the first two in an accessible place, brokerage order memoranda for the retail bond transactions. The complaint also alleges that the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. (FINRA Case #2005002259501)

Oscar Gerardo Grados (CRD #4600863, Registered Representative, Tacoma, Washington) was named as a respondent in a FINRA complaint alleging that he made unsuitable recommendations to customers that they obtain home equity loans, deposit the proceeds in their securities accounts at his member firm and use the proceeds to purchase mutual funds. The complaint alleges that Grados arranged a monthly transfer from each customer account to a bank account that each customer controlled, from which the customer would make monthly loan payments. The complaint also alleges that Grados recommended the transactions knowing that none of the customers were financially capable of purchasing the recommended mutual funds without resorting to a home equity loan, and he also knew, or should have known, that the customers would rely substantially upon the mutual fund returns to make the required home equity loan payments, thereby placing their homes at risk. (FINRA Case #2007011315901)

David Laifer (CRD #300673, Registered Representative, Gold Canyon, Arizona) was named as a respondent in a FINRA complaint alleging that he circumvented a prohibition by his member firm against further purchases of a low-priced and thinly traded penny stock. The complaint alleges that Laifer allowed his customers to have their stock share certificates reissued in another person's name, and the reissued shares were subsequently deposited into transferee customers' accounts. The complaint alleges that Laifer falsified documents that supported customer withdrawals or transfers by photocopying actual customer signatures from documents and taping the photocopied signatures on other forms, or whitening out dates on previously signed forms and entering a new date, and then submitting the falsified documents to his member firm for processing. The complaint also alleges that Laifer's altered documents and transfer of penny stock shares not reflected as trades caused his member firm's books and records to be inaccurate. The complaint further alleges that Laifer exercised discretionary and excessive trading in a customer's non-discretionary accounts without the customer's written authorization, and without his firm's acceptance of the accounts as discretionary. (FINRA Case #2007010941701)

Mark McEwen (CRD #4613500, Registered Principal, St. Charles, Missouri) was named as a respondent in a FINRA complaint alleging that he converted \$32,528.56 from a customer by falsely informing her that a check McEwen's member firm sent to her was sent by mistake and actually represented commissions that his firm owed him. The complaint alleges that McEwen instructed the customer to deposit the check into her bank account and then make a check payable to him in the same amount. After the customer followed these instructions, McEwen cashed the check and deposited the funds into his personal bank account. The complaint also alleges that McEwen converted \$31,000 from the customer by depositing checks into his personal bank account that were either intended for investment in the customer's account or

represented unnecessary or grossly inflated purported expenses associated with McEwen's suggestion that he could assist the customer's grandchildren in becoming associated with McEwen's firm. The complaint further alleges that McEwen's firm reimbursed the customer \$63,528.56 for the funds she provided to McEwen and he did not contribute to the settlement. In addition, the complaint alleges that McEwen failed to appear for FINRA on-the-record testimony. **(FINRA Case #2008014940601)**

Adam George Meister (CRD #4354400, Registered Representative, Evans, Georgia) was named as a respondent in a FINRA complaint alleging that he participated in private securities transactions without prior written notice to his member firm, completed a firm questionnaire stating that he understood he could not sell securities away from the firm, and falsely represented that he had not engaged in unapproved transactions. The complaint alleges that Meister made material misrepresentations and/or omissions in the sale of a security to a customer and recommended that she purchase an investment in the security without having a reasonable basis to believe that the investment was suitable given the customer's financial condition and circumstances. **(FINRA Case #2007011919001)**

Roger Jack Mouallem (CRD #1815781, Registered Principal, Boca Raton, Florida) was named as a respondent in a FINRA complaint alleging that, by the use of any means or instrumentality of interstate commerce or of the mails, Mouallem knowingly or recklessly engaged in manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities, and knowingly or recklessly effected transactions in, or induced the purchase or sale of securities by means of manipulative, deceptive or other fraudulent devices or contrivances. The complaint alleges that, in concert with a customer, Mouallem willfully engaged in a series of manipulative trades in a company's common stock in an attempt to artificially stabilize or inflate the price of the security. **(FINRA Case #2007009934703)**

Ryan Matthew Nestor (CRD #4376585, Registered Representative, Marblehead, Massachusetts) was named as a respondent in a FINRA complaint alleging that he wrongfully converted \$760,000 from elderly customers by forging the customers' or trustees' signatures on wire transfer forms without their consent or authorization, and causing the unauthorized withdrawal of funds from the customers' accounts to a third-party account. The complaint alleges that Nestor failed to respond to FINRA requests for information. **(FINRA Case #2008012540201)**

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

Broad Street Securities, Inc.
Plantation, Florida
(November 4, 2009)

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

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

Vision Securities, Inc.
Port Washington, New York
(November 12, 2009)

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

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

Theodore Richard Augustyniak
Bolingbrook, Illinois
(November 12, 2009 – November 18, 2009)

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

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

Neal Anthony Impellizeri
Plandome, New York
(November 24, 2009)

Rafael Mauricio Lanza
Nesconset, New York
(December 19, 2002 – November 2, 2009)

Michael Lowell Westmoreland
Chicago, Illinois
(November 5, 2009)

Individuals Barred Pursuant to FINRA Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

Scott B. Fay
Danbury, Connecticut
(November 18, 2009)

Charlene Chong Ingram
Chesapeake, Virginia
(November 25, 2009)

Brian-James O. McMichael
Terrytown, Louisiana
(November 23, 2009)

**Individuals Suspended 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.)

Peter N. Kim
Palatine, Illinois
(November 12, 2009)

John James Mishorich
Carmel, Indiana
(November 19, 2009)

Lecelle Theresa Montgomery
Vauxhall, New Jersey
(November 13, 2009)

Christine Marie Smith
Arlington, Virginia
(November 13, 2009)

**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.)

James Allan Fournace Jr.
Fort Meyers, Florida
(November 6, 2009)

Jeffrey David Francom
Saratoga Springs, Utah
(November 6, 2009)

Mark David Gandossy
Matthews, North Carolina
(November 6, 2009)

James Paul Hodgins
Laguna Niguel, California
(November 24, 2009)

Dean Sean Matthews
Waxhaw, North Carolina
(November 13, 2009)

Mark Jay Moskowitz
Millburn, New Jersey
(November 6, 2009)

Brad Niel Nussbaum
West Orange, New Jersey
(November 6, 2009)

Michael Joe Parker
Melvindale, Michigan
(June 29, 2009 – November 24, 2009)

Vincent Ross Jr.
Pittsburg, Pennsylvania
(November 24, 2009)

Thomas Karl Heinz Teltscher
Pasadena, California
(November 6, 2009)

FINRA Fines MetLife Securities and Affiliates \$1.2 Million for Email Supervision Failures Investigation of Broker Misconduct Continuing

The Financial Industry Regulatory Authority (FINRA) has fined MetLife Securities, Inc., and three of its affiliates a total of \$1.2 million for failing to establish an adequate supervisory system for the review of brokers' email correspondence with the public. The fine also resolves charges of failing to establish adequate supervisory procedures relating to broker participation in outside business activities and private securities transactions.

Those failures allowed two MetLife Securities brokers to engage in undisclosed outside business activities and private securities transactions without detection by the firm, costing some firm customers millions of dollars.

The three MetLife Securities affiliates are New England Securities Corp., Walnut Street Securities, Inc. and Tower Square Securities, Inc. All are headquartered in New York.

From March 1999 to December 2006, MetLife Securities and its affiliate broker-dealers had in place written supervisory procedures mandating that all securities-related emails of brokers be reviewed by a supervisor. However, the firms did not have a system in place that enabled supervisors to directly monitor the email communications of brokers. Instead, the firms relied on the brokers themselves to forward their emails to supervisors for review. To monitor compliance with the email-forwarding requirement, the firms encouraged—but did not require—managers to inspect brokers' computers for any emails that had not been forwarded as required. But brokers were able to delete their emails from their assigned computers, thus rendering spot-checks unreliable.

The firms also conducted annual branch audits, which were likewise ineffective because they did not allow for timely detection of email-forwarding failures. Moreover, the method employed by the auditors to identify email-forwarding deficiencies (prior to July 2005) was itself flawed, consisting mainly of a review of hard-copy files for any correspondence (including emails) that had not been forwarded. Brokers were therefore able to withhold emails without detection by the firm and conceal evidence or "red flags" of misconduct contained in their emails.

"Although FINRA's rules afford firms the flexibility to tailor procedures that are appropriate for their particular business models, all firms must have the ability to flag emails that may evidence misconduct," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "Relying on brokers to provide copies of their own emails to supervisors for review is hardly an effective means to detect such misconduct."

FINRA further found that during the period from March 1999 through December 2006, two MetLife Securities brokers engaged in undisclosed outside business activities and private securities transactions without detection by the firm, although the misconduct was reflected in more than 100 separate emails that the brokers sent or received using their MetLife Securities email addresses. MetLife Securities did not discover the misconduct of either broker through supervisory review of emails because the brokers did not forward their emails to their respective supervisors. MetLife Securities ultimately discovered that one of those brokers, Mark Salyer, stole nearly \$6 million

from his customers in connection with his participation in numerous private securities transactions to raise capital for real estate development companies with which he had a relationship. In January 2009 the SEC barred Salyer from association with any broker, dealer or investment adviser. FINRA's investigation of the misconduct of the other MetLife broker is continuing.

FINRA also found that the firms' inability to ensure compliance with the email-forwarding requirement meant they could not adequately enforce their own supervisory procedures relating to outside business activities and private securities transactions.

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

FINRA Fines Terra Nova Financial \$400,000; Firm Made Over \$1 Million in Improper Soft Dollar Payments

Three Former Employees Also Sanctioned

The Financial Industry Regulatory Authority (FINRA) has fined Terra Nova Financial, LLC, of Chicago, \$400,000 for making more than \$1 million in improper soft dollar payments to or on behalf of five hedge fund managers, without following its own policies to ensure the payments were proper.

Terra Nova was also charged with failing to properly supervise its soft dollar program, failing to implement adequate supervisory procedures and failing to retain its business-related electronic instant messages. Terra Nova also failed to timely respond to FINRA's requests for productions of various documents, including emails and instant messages, thus delaying FINRA's investigation.

FINRA also sanctioned three individuals. Cleovan Jordan, the soft dollar administrator who managed Terra Nova's relationship with its hedge fund clients, was suspended from associating in any capacity with a securities firm for 30 days and fined \$20,000. Joshua Teuber, who supervised the soft dollar operation, was charged with failure to properly supervise, suspended from acting in a supervisory or principal capacity for 20 days and fined \$15,000. David Persenaire, the firm's Chief Compliance Officer until September 2009, was charged with failing to ensure the implementation of adequate written systems and procedures, suspended from acting in a supervisory or principal capacity for 10 days, fined \$10,000 and required to take and pass a Compliance Official Qualification Exam.

As part of the settlement, Terra Nova is required to retain an independent consultant to review and enhance its policies, systems and procedures relating to its soft dollar operations.

"Broker-dealers that collect soft dollars and make payments for their hedge fund clients must possess and implement adequate procedures that govern their soft dollar practices," said Susan Merrill, FINRA Executive Vice President and Chief of Enforcement. "Firms must not ignore red flags indicating the potential misuse of soft dollars that are generated from trading commissions. Soft dollars belong to the hedge fund investors

and must be used for the benefit of the funds, or as permitted by the fund's own disclosure documents.

"In this case, Terra Nova's own policies required it to obtain and review a copy of the offering documents for its hedge fund clients," Merrill said. "Terra Nova made numerous soft dollar payments that were improper because they were not authorized or clearly disclosed in those documents or because Terra Nova did not obtain sufficient documentation or conduct an adequate review. Therefore, Terra Nova knew, or with reasonable inquiry should have known, that the payments were inappropriate."

FINRA found that starting in 2004, Terra Nova set up soft dollar accounts for eight hedge funds to encourage the funds to execute trades with the firm. Terra Nova collected a portion of the commissions generated by the funds' trading in separate soft dollar accounts and from those accounts paid invoices from the fund managers or third parties for various services. Federal securities laws allow advisors to use soft dollars to pay for research or brokerage-related expenses. But advisors may only use soft dollars to pay for personal expenses or other non-research or non-brokerage related expenses if those types of payments were previously disclosed to investors and if they are made in accordance with the terms of the fund's organizing documents.

FINRA found that in 2004 and 2005, Terra Nova made numerous improper soft dollar payments to or on behalf of five hedge fund advisors totaling more than \$1 million. Some payments (for estate planning fees, administrative staff and accounting expenses) were not allowed by the fund documents. Other payments made directly to the funds' managers were improper because Terra Nova did not receive written authorization from a third party evidencing that the payments were appropriate, as required by fund documents that the firm had or should have obtained under its own policies.

Terra Nova paid at least \$1 million in expenses without receiving adequate documentation or conducting an adequate review to determine that the payments were for expenses authorized by fund documents. Those payments included:

- \$13,700 for seven trips by a hedge fund manager to a "gentlemen's club" in a two-week period.
- \$65,000 for credit card bills that contained charges for meals, clothing, auto repairs and parking tickets. Terra Nova made other payments for limousines, airline tickets and hotel stays.
- \$145,000 for salaries and benefits of non-clerical employees when the fund documents only permitted payments for "clerical staff salaries and benefits."
- \$389,000 in payments for "consulting fees related to research" when the invoices requesting the payments did not sufficiently identify who provided the research or what research was being provided.
- More than \$470,000 to one manager based solely on the manager's representation that soft dollars would be used to "fund expenses in conjunction with our documents" without any clear understanding of what expenses were being paid.

FINRA found that Terra Nova and Teuber failed to supervise the firm's soft dollar operations by failing to respond adequately to red flags indicating hedge fund advisors were using soft dollars to pay for unallowable expenses. FINRA further found that Terra Nova and Persenaire failed to develop adequate systems and procedures in place to supervise its soft dollar group and that the firm failed to follow the policies it did have in place.

In settling this matter, Terra Nova, Jordan, Teuber and Persenaire neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

Jordan's suspension was in effect from December 7, 2009, through January 6, 2010. Teuber's suspension was in effect from December 21, 2009, through January 9, 2010. Persenaire's suspension was in effect from December 21, 2009, through December 30, 2009.