

# Disciplinary and Other FINRA Actions

## Firm Fined, Individual Sanctioned

**Investscape, Inc. (CRD® #39992, West Bloomfield, Michigan) and Richard Michael Lim (CRD #2094646, Registered Principal, Howell, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$7,000 and fined \$17,500, jointly and severally with Lim. Lim was suspended from association with any FINRA member in any supervisory capacity for one month. Without admitting or denying the findings, the firm and Lim consented to the described sanctions and to the entry of findings that the firm, acting through Lim, failed to inspect branch offices even though it had been previously warned in a Letter of Caution that branch offices needed to be inspected on a regular basis. The findings stated that the firm's written procedures failed to identify locations that regularly conducted the business of effecting securities transactions by soliciting new accounts as branch offices, and failed to address the firm's requirement to conduct internal inspections of these offices. The findings also stated that the firm, through Lim, failed to preserve emails in non-rewritable, non-erasable format; failed to provide FINRA with notifications of its use of electronic storage media; failed to provide FINRA with a letter from a third party describing the third party's undertakings regarding the firm's electronic storage media as specified by Securities and Exchange Commission (SEC) Rule 17a-4; and failed to evidence the review of all incoming and outgoing email communications with customers.

The suspension was in effect from May 17, 2010, through June 16, 2010.  
(FINRA Case #2008011737101)

## Firm and Individual Fined

**Marsco Investment Corporation (CRD #18483, Roseland, New Jersey) and Mark E. Kadison (CRD #1607723, Registered Principal, Livingston, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000, and Kadison was censured and fined \$10,000. In addition, within 90 days of the issuance of the AWC, the firm's Chief Executive Officer must certify in writing to FINRA that the firm has systems and procedures in place that are reasonably designed to achieve compliance with the laws, regulations and rules concerning the preservation of electronic mail communications. Without admitting or denying the findings, the firm and Kadison consented to the described sanctions and to the entry of findings that the firm, acting through Kadison, failed to maintain and preserve all business-related electronic communications.

## Reported for July 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).

The findings stated that the firm and Kadison failed to establish and maintain a supervisory system, and failed to establish, maintain and enforce written supervisory procedures, reasonably designed to achieve compliance with the rules and regulations applicable to the retention of electronic communications. The findings also stated that the firm, acting through Kadison, failed to implement a customer identification program in compliance with its written anti-money laundering (AML) compliance procedures for verifying customer identity for accounts opened with the firm. **(FINRA Case #2009016078101)**

## Firms Fined

**Baron Capital, Inc. (CRD #10538, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to submit written certification and documentation that appropriate principal registrations have been obtained for all employees acting in a principal capacity. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted an employee to actively engage in the management of its securities business, a function requiring principal registration, while the employee was not registered with FINRA in that capacity. **(FINRA Case #2009016315201)**

**Butler Muni, LLC (CRD #7389, San Ramon, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$70,000, required to pay \$25,408, plus interest, in restitution to customers and required to revise its written supervisory procedures regarding bid-wanted auctions. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, acting in the capacity of a broker's broker, and in connection with the purchase and sale of municipal securities, it did not inform the selling broker-dealer of a higher bid the highest bidding broker-dealer submitted in bid-wanted auctions. The findings stated that the firm's conduct deprived the selling broker-dealers of receiving a higher sale price and, as a result, the firm failed to deal fairly with its customers. 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 Municipal Securities Rulemaking Board (MSRB) rules concerning bid-wanted auctions. **(FINRA Case #2006007537201)**

**E\*Trade Clearing LLC (CRD #25025, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$350,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it introduced several new money market sweep funds and, when entering certain back-office processing instructions relating to some of the funds, the firm made an error that resulted in the system failing to recognize these fund positions and customers being erroneously charged margin interest for that day. The findings stated that when the firm became aware of this coding error and corrected the problem, it did not identify or reimburse affected customers until later in the year; the firm reimbursed affected customers a total of \$43,938.57 in erroneous margin interest charges several months later. The findings also stated that the firm acquired customer accounts through conversions from other firms, and it erroneously charged margin interest to conversion customers who traded

options. The findings also included that the firm failed to designate an employee to review, reconcile and resolve fractional share differences between its Depository Trust Company (DTC) position and the actual quantity of securities on deposit at the DTC.

FINRA found that the firm's systems failed to accept delivery instructions if customers had pending dividends or unsettled positions in their accounts. FINRA also found that the firm failed to establish a system reasonably designed to supervise and written procedures reasonably designed to prevent and/or correct erroneous margin interest accruals in customer accounts holding certain money market sweep funds, prevent and/or correct erroneous margin interest charges to converting customers who traded options at the time of the conversion and had available cash in their accounts, ensure the review and reconciliation of fractional share differences with the DTC, and ensure the prompt transfer of physical certificates to customers. In addition, FINRA determined that the firm failed to accurately mail account statements to customers, liquidated fractional shares in customer accounts without their authorization and failed to report customer complaints in an accurate and timely manner. Moreover, FINRA determined that, in connection with its conversion to a new back office system, a functionality that impacted the segregation of long positions in suspense accounts was not activated as required and, as a result, the firm's possession and control system failed to issue segregation instructions on long positions in suspense accounts. **(FINRA Case #2007009471101)**

**E\*Trade Securities LLC (CRD #29106, 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 adequately prepare for, and respond to, its acquisition of another member firm and, prior to the conversion, it identified approximately 88,000 converting customers whose login information was likely to be incompatible with the firm's systems. The findings stated that the firm communicated with those customers and provided them with temporary login IDs and instructions, but an additional number of conversion customers who the firm had not initially identified also had login information that was incompatible with the firm's systems. The findings also stated that this login problem led to higher-than-expected call volumes, which the firm was not equipped to handle, and the problem was not completely resolved for several months and the conversion customers continued to inquire about their passwords and access to their accounts. The findings also included that the firm had over 17,000 unanswered emails from converting customers regarding conversion issues.

FINRA found that the firm disclosed that a technological problem had prevented it from transmitting customer orders to various market centers on a particular day and, as a result, the firm's customers were unable to enter orders online or log on to the firm's website. FINRA also found that the firm's website experienced sporadic slowness and continued delays because requests had accumulated in excess of what the systems were normally able to process. In addition, FINRA determined that the firm failed to establish a system reasonably designed to supervise, and written procedures reasonably designed to ensure, customers' ability to log in to their accounts and contact customer service for assistance, ensure customers' ability to enter orders online on one particular day and to timely enter orders online. **(FINRA Case #2007009471102)**

**Farina & Associates, Inc. (CRD #32830, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding compliance with Order Audit Trail System (OATS™) rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to OATS. 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 compliance with OATS rules. **(FINRA Case #2008012654201)**

**First Allied Securities, Inc. fka FFP Securities, Inc. (CRD #32444, San Diego, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it acted as a broker on its customer's behalf in variable life settlement transactions and, in each of the transactions, the firm, acting through one of its registered representatives, utilized a firm-approved life settlement broker for the transaction. The findings stated that in each transaction, the firm provided the customer with a purchase agreement that stated the net purchase price that the customer was to receive for the life settlement transaction, but did not disclose the total price the purchaser paid or the amount of commissions paid in the transaction. The findings also stated that, since variable life settlements are securities transactions, the firm was required to provide the customer with a confirmation of each transaction, which it did not. The findings also included that the firm failed to enforce its written supervisory procedures relating to variable life settlement transactions and failed to reasonably supervise the registered representative who handled the customer's life settlement transactions. **(FINRA Case #2008012757902)**

**FMSbonds, Inc. (CRD #7793, 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 issued corporate bond and municipal bond confirmations that disclosed to the customer an erroneous firm capacity on the trades; specifically, the confirmations incorrectly stated that the firm was acting as an agent instead of in a principal capacity. **(FINRA Case #2008011689301)**

**Goldman, Sachs & Co. (CRD #361, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$120,000 and required to revise its written supervisory procedures regarding SEC Rules 200(g) and 203(b)(3), and NASD Rule 613(d)(6). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report short interest positions for numerous foreign securities. The findings stated that on several settlement dates, the firm reported short interest positions in securities totaling several million shares each time, when the actual short interest positions in the securities were zero shares. The findings also stated that the firm inadvertently failed to remove its "excused withdrawal" status as a NASDAQ market maker in several securities, and on numerous occasions involving such securities, accepted a short sale order in an equity security from another person, or effected a short sale in an equity security for its own account, in mistaken reliance on the market maker exemption

contained in SEC Rule 203(b)(2)(iii) and thus 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 also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning SEC Rule 203(b)(3).

FINRA found that the firm failed to provide adequate documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning SEC Rule 200(g) and NASD® Rule 6130(d)(6). FINRA also found that the firm failed to accept or decline transactions in reportable securities in the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) within 20 minutes after execution that it had an obligation to accept or decline as the order entry identifier (OEID). **(FINRA Case #2007007833301)**

**Greenberg Financial Group (CRD #38747, Tucson, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding the maintenance of accurate books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning the maintenance of accurate books and records. The findings stated that the firm failed to enforce its written supervisory procedures, which specified that a firm principal must pre-approve options transactions. The findings also stated that the firm failed to show the correct entry or execution times, or both, on brokerage order memoranda. **(FINRA Case #2006005822301)**

**ITG Inc. (CRD #29299, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its written supervisory procedures regarding short interest 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 numerous short interest positions in numerous securities to FINRA, and 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 #2007009494701)**

**Merrill Lynch Professional Clearing Corp. (CRD #16139, New York, New York)** 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 submitted inaccurate short interest position reports in NASDAQ securities to NASD, and submitted inaccurate short interest position reports in securities listed on the New York Stock Exchange (NYSE) to the NYSE. 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 the destination member firm transmitted due to inaccurate, incomplete or improperly formatted data. The findings also stated that the firm failed to timely report numerous ROEs to OATS, and transmitted Execution or Combined

Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data so that the OATS system was unable to link the execution reports to the related trade reports in an NASD trade reporting system. The findings also included that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair most of them, so they were not transmitted to OATS. **(FINRA Case #2006005866101)**

**Morgan Stanley & Co., Incorporated (CRD #8209, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$57,500 and required to revise its written supervisory procedures regarding NASD Rule 3310. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its aggregate trade volume (buy and sell) for an equity security advertised and published in Bloomberg for one month substantially exceeded the firm's actual executed trade volume for that security. 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 NASD Rule 3310. **(FINRA Case #2008012362901)**

**Natixis Bleichroeder LLC (CRD #1101, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$140,000, ordered to pay \$3,518.61, plus interest, in restitution to investors and required to revise its written supervisory procedures regarding SEC Rules 203(a) and 204T, SEC Rules 611(a) and (c), and 612 of Regulation NMS, NASDAQ Rule 4755, market order protection, odd-lot transaction reporting, quoting in multiple real-time quotation systems and soft dollars (executing and reporting under the safe harbor). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in threshold securities for 13 consecutive settlement days, and without closing out the fail-to-deliver positions by purchasing securities of like kind and quantity, it failed to borrow the security or enter into a *bona fide* arrangement to borrow the security before executing proprietary short sales; in one security, the firm continued to have a fail-to-deliver position at the registered clearing agency on 47 additional settlement days. The findings stated that the firm failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved its bid or offer in each security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. 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 203(a) and 204T, SEC Rules 611(a) and (c) and 612 of Regulation NMS, NASDAQ Rule 4755, market order protection, odd-lot transaction reporting, quoting in multiple real-time quotation systems and soft dollars (executing and reporting under the safe harbor). 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 SEC Rule 200(g)(order marking) and SEC Rule 203 (locate requirements).

FINRA found that the firm failed to execute orders fully and promptly. FINRA also found that in transactions for or with a customer, 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 customer was as favorable as possible under prevailing market conditions. In addition, FINRA determined that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the firm incorrectly cancelled executed orders and reported incorrect time in force codes; transmitted ROEs to OATS it should not have submitted; incorrectly submitted execution information to OATS for orders routed to an outside market center; omitted special handling codes; failed to submit the correct order shares quantity; failed to transmit Route Reports for agency orders and failed to report one ROE to OATS. Moreover, FINRA found that the firm executed short sale transactions and failed to report each of the transactions to the OTC™ Reporting Facility (OTCRF) with a short sale modifier, executed a short sale transaction and failed to report it to the NASD/NASDAQ Trade Reporting Facility (NNTRF) with a short sale modifier, executed short sale transactions and long sale transactions and failed to report them to the OTCRF with the correct symbol indicating whether the transactions were a buy, sell, sell short, sell short exempt or cross for transactions in reportable securities. Furthermore, FINRA found that the firm transmitted trade reports for odd-lot trades and failed to report the transactions with the required odd-lot modifier of .RO to the OTCRF. The findings stated that the firm reported last sale reports of transactions in designated securities to the FNTRF that it was not required to report, and failed to submit last sale reports of transactions in foreign securities to the OTCRF on T+1 between 8:00 a.m. and 1:30 p.m. Eastern Time. The findings also stated that the firm accepted short sale orders in an equity security from another person, or effected a short sale 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 also included that the firm failed to report last sale reports of odd-lot transactions in designated securities for publication to the FNTRF and the OTCRF. **(FINRA Case #2006004362601)**

**Neuberger Berman LLC (CRD #2908, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair many of them, so it failed to transmit them to OATS. The findings stated that the firm failed to repair some rejected ROEs within the required five business days and, in some instances, failed to use the resubmit indicator of "Y" when transmitting repaired ROEs to OATS. **(FINRA Case #2007010022701)**

**NYFIX Millennium, L.L.C. (CRD #103843, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted Route Reports to OATS where the firm was named as the "Sent To Firm" that OATS was unable to match to a related

New Order Report the firm submitted. The findings stated that the firm failed to timely report numerous ROEs to OATS and transmitted Execution or Combined Order/ Execution Reports to OATS that the OATS system was unable to link to the related trade reports due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #2006005522001)**

**RBS Securities Inc. (CRD #11707, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct time of trade execution for transactions in TRACE™-eligible securities to the Trade Reporting and Compliance Engine™ (TRACE), and failed to report these transactions within 15 minutes of the execution time. The findings stated that the firm failed to show the correct execution time on brokerage order memoranda. **(FINRA Case #2008015527801)**

**Skyebanc, Inc. (CRD #44164, Shrewsbury, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed customers' unsolicited sale orders of unregistered shares of a stock while no exemption applied to the sale. The findings stated that the firm failed to establish and maintain a supervisory system and failed to establish, maintain and enforce written supervisory procedures reasonably designed to achieve compliance with the rules and regulations applicable to customer sales of unregistered securities. The findings also stated the firm failed to document in its supervisory control procedures the factors it used to determine that complete compliance with the General Supervisory Requirement was not possible, and failed to enforce written supervisory procedures reasonably designed to provide heightened supervision over the activities of a producing manager who was responsible for generating 20 percent or more of the revenue of the business units the producing manager's supervisor supervised. The findings also included that the firm failed to enforce required principal review of customer fund transmittals, to utilize exception reports its clearing firm provided to assist with the review of wire transmissions and to maintain the reports for 18 months.

FINRA found that the firm failed to utilize exception reports its clearing firm provided to detect red flags, and failed to investigate, conduct due diligence and/or timely file Suspicious Activity Reports (SARS) as appropriate; failed to analyze, investigate or otherwise address suspicious activity until after it received an SEC subpoena; and failed to maintain documentation to demonstrate that it had received and responded to information requests by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) pursuant to Section 314(a) of the U.S.A. PATRIOT Act. FINRA also found that the firm failed to evidence that it had conducted a timely search of its records in response to requests from FinCEN to determine if it had maintained an account for, or had engaged in any transaction with, certain individuals, entities or organizations. **(FINRA Case #2008011736104)**

**Wedbush Securities, Inc. (CRD #877, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. The firm has made restitution totaling \$581.38. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that

it failed to fully and promptly execute orders. The findings stated that in transactions for or with a customer, 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 customer was as favorable as possible under prevailing market conditions. (FINRA Case #2009017658001)

**Weeden & Co. L.P. (CRD #16835, Greenwich, Connecticut)** 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 it failed to report to the FNTRF or the OTCRF the correct symbol indicating whether transactions were buy, sell, sell short or cross for transactions in reportable securities. The findings stated that the firm failed to report last sale reports of odd-lot transactions in designated securities for publication to the FNTRF, and transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings also stated that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors, and the firm failed to repair all of them. (FINRA Case #2006006826301)

**Wells Fargo Advisors, LLC fka Wachovia Securities, LLC (CRD #19616, St. Louis, Missouri)** 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 file pieces of unit investment trust (UIT) marketing material with the NASD Department of Advertising Regulation within 10 days of first use or publication, and internally used UIT marketing materials that failed to provide a sound basis for evaluation and complete presentation, failed to provide the basis for performance, failed to disclose the risk associated with UITs and failed to include all material differences between investment options. The findings stated that the firm used marketing materials that included performance of prior, unavailable UIT portfolios to promote UIT portfolios that were currently available and UIT performance data that was misleading. (FINRA Case #2007009356502)

**Wolfe & Hurst Bond Brokers Inc. (CRD #8288, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain and enforce written supervisory procedures reasonably designed to achieve compliance with municipal securities transaction reporting requirements related to permissible modifications in exception reporting. The findings stated that the firm's procedures improperly allowed for a firm employee to modify the correct time of trade on a municipal securities transaction, if it was not within 15 minutes of the time of trade reported by the contra party, and then to report the modified time to the MSRB in next-day exception reporting. (FINRA Case #2009016216001)

## Individuals Barred or Suspended

**Noor Siraj Amirali (CRD #3062220, Registered Representative, Houston, 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 three

months. Without admitting or denying the findings, Amirali consented to the described sanctions and to the entry of findings that he placed customer initials and signatures, and inserted dates on account documents for customers, without the customers' prior knowledge or authorization. The findings stated that Amirali submitted the altered documents to his member firm as authentic. The findings also stated that, although the customers approved the various actions, the customers did not authorize Amirali to sign their initials or signatures, insert dates or alter the documents, and, by conducting these acts, Amirali caused his member firm's books and records to be inaccurate.

The suspension is in effect from June 7, 2010, through September 6, 2010. **(FINRA Case #2008014608801)**

**Luis Arguelles (CRD #4335211, Registered Principal, Mexico City, Mexico)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Arguelles threatened an associated person of another member firm that he was going to take his firm's lucrative securities transactions business elsewhere unless the associated person gave him money. The findings stated that, as a result of Arguelles' threat, the associated person paid approximately \$18,000 to Arguelles and Arguelles' relative by providing Arguelles with cash and by depositing money into the bank account of Arguelles' relative. The findings also stated that Arguelles failed to respond to FINRA requests to appear for testimony. **(FINRA Case #2009016608201)**

**Kenia Bailey (CRD #4944448, Associated Person, Beltsville, Maryland)** 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, Bailey consented to the described sanction and to the entry of findings that she had responsibility for purchasing office supplies for her member firm's branch office with access to the firm's house account and charge card for an office supply store, which she used to purchase gift cards and office supplies for her own use and then submitted fabricated documents and invoices to the firm's accounts payable department that made the personal charges appear as if they were branch expenses. The findings stated that Bailey had access to branch managers' corporate credit cards, used the cards to purchase personal items and created fabricated receipts that made it appear as if the charges were branch office expenses. The findings also stated that Bailey misappropriated approximately \$50,000 from the firm in this manner. The findings also included that Bailey prepared and submitted fabricated documents in support of the expense reimbursement requests. **(FINRA Case #2008016247401)**

**Andres Barcenas Jr. (CRD #5154536, Registered Representative, Spring, 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 three months. The fine must be paid either immediately upon Barcenas' 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, Barcenas consented to the described sanctions and to the entry of findings that he forged customers' signatures without their authorization and affixed photocopied signatures on paperwork for customers. The findings stated that Barcenas' conduct caused his member firm's records to be inaccurate.

The suspension is in effect from May 17, 2010, through August 16, 2010. **(FINRA Case #2008014940401)**

**Angela Lott Bounds (CRD #4460214, Registered Representative, Purvis, Mississippi)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Bounds' reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bounds consented to the described sanctions and to the entry of findings that she falsely represented on separate annuity purchase contracts that the customer purchases were not being funded with monies from surrendered annuity contracts. The findings stated that Bounds failed to complete firm exchange forms, which the firm required, in order to circumvent the firm's procedures, which would have required additional supervisory review of the transactions.

The suspension is in effect from May 17, 2010, through November 16, 2010. **(FINRA Case #2008014529301)**

**Willie James Brice Jr. (CRD #4327266, Registered Supervisor, Deerfield Beach, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Brice'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, Brice consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for documents and information concerning alleged participation in an undisclosed business activity.

The suspension is in effect from June 7, 2010, through December 6, 2010. **(FINRA Case #2008013831902)**

**Jason K. Bronsky (CRD #5590359, Registered Representative, Westwood, 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, Bronsky consented to the described sanction and to the entry of findings that he used the bank ID and computer of the assistant branch manager at the bank where he was employed to create an automatic teller machine (ATM) card and personal identification number (PIN) for a bank customer without the customer's knowledge. The findings stated that Bronsky used the ATM card and PIN to withdraw a total of \$2,511 from the customer's savings account for his own use and benefit. **(FINRA Case #2010021551101)**

**Nathan Eugene Calhoun (CRD #716257, Registered Representative, Little Rock, Arkansas)** 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 Calhoun'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, Calhoun consented to the described sanctions and

to the entry of findings that he participated in a private securities transaction outside the regular course of his employment with his member firm by introducing the firm's customer to an issuer, a private bank offering an investment in a managed foreign currency trading program, and acting as a liaison between the issuer and the customer. The findings stated that the customer lost the \$30,000 invested in the foreign currency trading program. The findings also stated that Calhoun failed to provide prior notice to his firm and failed to receive his firm's written acknowledgment concerning his participation in the private securities transaction.

The suspension was in effect from June 7, 2010, through July 6, 2010. **(FINRA Case #2009018652501)**

**Matthew Alan Campbell (CRD #1879717, Registered Representative, Valparaiso, Nebraska)** 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, Campbell consented to the described sanction and to the entry of findings that he failed to timely disclose material information on his Uniform Application for Securities Industry Registration or Transfer (Form U4) and failed to respond to FINRA requests for information. **(FINRA Case #2009018000801)**

**David Chin (CRD #1380575, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Chin consented to the described sanctions and to the entry of findings that he signed a customer's name on documents without the customer's consent.

The suspension was in effect from June 7, 2010, through July 6, 2010. **(FINRA Case #2008013433001)**

**John Paul Coen (CRD #1602068, Registered Principal, Greenwich, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Coen'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, Coen consented to the described sanctions and to the entry of findings that he borrowed approximately \$2,700,000 from a customer and used the loan to trade in his personal brokerage account and cover a margin call. The findings stated that Coen wired \$300,000 that he borrowed from the customer to an account another firm customer controlled, claiming that the money was a loan to the customer. The findings also stated that Coen borrowed approximately \$270,000 from another firm customer for whom he managed the brokerage accounts for entities the customer controlled. FINRA found that Coen's firm did not permit loans from or to customers, and Coen did not request or obtain his firm's pre-approval (either verbally or in writing) prior to borrowing or lending monies from or to customers, nor did he otherwise inform his firm of the loans.

The suspension is in effect from May 17, 2010, through November 16, 2011. **(FINRA Case #2008016448101)**

**Eric Spencer Cott (CRD #2421389, Registered Supervisor, Ridgefield, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Cott'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, Cott consented to the described sanctions and to the entry of findings that he allowed another individual to improperly assist him in completing a Florida long-term care (LTC) continuing education (CE) requirement by taking the majority of an LTC CE exam for him. The findings stated that Cott obtained the Florida LTC CE requirement and then sold a universal life insurance policy with LTC benefits to a client.

The suspension was in effect from June 7, 2010, through July 6, 2010. **(FINRA Case #2009021029701)**

**Cheryl Ann Daniel (CRD #4872951, Registered Representative, Farmers Branch, Texas)** 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, Daniel consented to the described sanction and to the entry of findings that she took confidential customer information, including social security numbers, upon her departure from a member firm and used the information to solicit business at her new member firm. The findings stated that, as a result of Daniel's former firm findings, her new firm conducted a review of her files that revealed that she had retained copies of or originals of her former firm's account documents. The findings also stated that Daniel responded falsely to a FINRA request for information pertaining to the matter, but later acknowledged to FINRA that she had provided false information after being confronted with copies of documents she had retained. **(FINRA Case #2008013810201)**

**Blaine Carter Davis (CRD #4805348, Registered Representative, Draper, Utah)** 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, Davis consented to the described sanction and to the entry of findings that he converted \$69,200 of customers' funds from his member firm's active assets accounts for his personal use. The findings stated that Davis wrote checks made payable to the order of "cash," enabling him to withdraw funds from customers' active assets accounts, and then deposited the withdrawn funds into his personal bank account. The findings also stated that Davis forged the customers' signatures on the checks before negotiating them. **(FINRA Case #2009016750801)**

**Todd Matthew Dudonis (CRD #2804497, Registered Representative, East Northport, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. Without admitting or denying the findings, Dudonis consented to the described sanctions and to the entry of findings that he signed a branch office manager's name on a form in connection with a customer's annuity contract. The findings stated that the customer had authorized the change of broker; however, Dudonis signed the branch office manager's name on the form without the branch office manager's authorization, knowledge or consent.

The suspension is in effect from June 21, 2010, through September 18, 2010. (FINRA Case #2008015553701)

**Michael Ray Ecton (CRD #4579793, Registered Representative, Lexington, Kentucky)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Ecton signed customers' names to insurance documents submitted to his member firm's insurance affiliate without their knowledge or approval. The findings stated that Ecton repeatedly made false statements to his firm that he had signed the documents, impeding the firm's internal investigation, and failed to respond to FINRA requests for additional information. (FINRA Case #2007010784701)

**Matthew James Ferber Sr. (CRD #2820230, Registered Representative, Levittown, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Ferber'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, Ferber consented to the described sanctions and to the entry of findings that he executed a promissory note in which he agreed to reimburse a firm customer \$64,000 for losses in the customer's account. The findings stated that this settlement was without his firm's knowledge or authorization and violated firm policy that prohibited registered representatives from guaranteeing (through implication or statement) any profit or absorbing any loss for a client and settling customer complaints. The findings also stated that Ferber has not made any payments to the customer.

The suspension is in effect from June 7, 2010, through July 19, 2010. (FINRA Case #2009017295301)

**Mark Steven Gardner (CRD #832102, 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 one month. The fine must be paid either immediately upon Gardner'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, Gardner consented to the described sanctions and to the entry of findings that he executed equity securities purchase transactions to open an investment account on a corporation's behalf without its knowledge or consent. The findings stated that Gardner accepted purchase orders from an individual who did not have authorization to act on the corporation's behalf and, prior to executing the transactions, Gardner failed to verify whether the individual had been granted authorization by the corporation. The findings also stated that the transactions' amounts totaled \$2,203,020.

The suspension was in effect from May 17, 2010, through June 16, 2010. (FINRA Case #2008015914301)

**Richard Elmer Gilbert (CRD #1031899, Registered Principal, Novi, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for one year. After consideration of sanctions previously imposed by the State of Michigan of six months for the same conduct, FINRA determined to give Gilbert credit for serving six months of the suspension, but he is required to serve six months of the suspension. In light of Gilbert's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Gilbert consented to the described sanction and to the entry of findings that he borrowed money from investors, including firm customers, to raise funds for a residential real estate development company he owned and controlled, and in connection with the borrowing, Gilbert participated in securities transactions when he issued promissory notes totaling approximately \$1,095,072, which he signed on his company's behalf. The findings stated that Gilbert's member firm prohibited borrowing from customers, and Gilbert failed to provide his firm with written notice of his intention to engage in private securities transactions and failed to receive his firm's written permission.

The suspension is in effect from May 17, 2010, through November 16, 2010. **(FINRA Case #2008014574101)**

**Barry Eden Gitarts (CRD #4746150, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, 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 Gitart'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, Gitarts consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension is in effect from June 7, 2010, through December 6, 2010. **(FINRA Case #2008015147201)**

**Harold Lee Glover Jr. (CRD #4658038, Registered Representative, Johns Island, South Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Glover'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, Glover consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing his member firm with prior written notice. The findings stated that Glover recommended that his customers invest in investment funds of an entity which was not approved by his firm and was exposed by federal authorities as a Ponzi scheme. The findings also stated that Glover did not receive any compensation and his customers lost approximately \$470,000 by investing in the funds.

The suspension is in effect from June 21, 2010, through October 20, 2010. **(FINRA Case #2008015254101)**

**Johnathan Michael Goods (CRD #5100351, Registered Representative, Bessemer, Alabama)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Goods consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for documents and information. **(FINRA Case #2009019466001)**

**Robert Edward Groux Sr. (CRD #4947184, Registered Representative, Friendswood, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 15 business days. In light of Groux's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Groux consented to the described sanction and to the entry of findings that he recommended to elderly customers that they invest approximately \$300,000, which was 90 percent of their liquid net worth and 100 percent of their account value, in a basket of illiquid, risky alternate investments, including real estate investment trusts and equipment leasing partnerships. The findings stated that Groux did not have reasonable grounds for believing that the recommendation was suitable based upon the facts the customers disclosed as to their financial situation and needs.

The suspension was in effect from June 7, 2010, through June 25, 2010. **(FINRA Case #2008012755301)**

**Douglas Kyle Haas (CRD #2424725, Registered Representative, Queen Creek, Arizona)** was fined \$15,000 and suspended from association with any FINRA member in any capacity for two years. The fine is due and payable upon Haas' return to the securities industry. The sanctions were based on findings that Haas improperly borrowed \$5,500 from member firm customers and memorialized the loan with a memorandum in which he promised to repay the loan. The findings stated that he did so after affirming to abide by the firm's code of conduct, which prohibited its representatives from borrowing money from customers with limited exceptions inapplicable here. The findings also stated that Haas failed to repay the customers, or reimburse the firm for having done so. The findings included that Haas confirmed his admission to his firm's investigator that he had asked several other customers for loans, but had been refused.

The suspension is in effect from May 17, 2010, through May 16, 2012. **(FINRA Case #2007011016301)**

**Arthur Albert Halleen (CRD #842624, Registered Representative, Pottsboro, Texas)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Halleen consented to the described sanction and to the entry of findings that he borrowed approximately \$337,000 from customers without his member firm's permission or knowledge and in violation of firm policy by telling customers that he would invest in unspecified products and in unspecified ways outside of their firm accounts, would repay them at interest rates between 5 percent and 12 percent, and provided promissory notes to some setting forth the terms. The findings stated that Halleen failed to repay more than \$260,000 of the money he borrowed from customers. The findings also stated that Halleen misappropriated \$24,000 from a customer and

refused to repay the customer when requested. The findings also included that Halleen failed to respond to FINRA requests for information and documents. **(FINRA Case #2008014611101)**

**Stephen A. Hancock (CRD #5637967, Registered Representative, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hancock consented to the described sanction and to the entry of findings that he obtained access to funds an elderly bank customer held in one or more bank accounts and caused the withdrawal of approximately \$11,320 from the accounts. The findings stated that Hancock obtained a portion of the funds by causing early withdrawals from a time deposit account and used the funds for his personal benefit. The findings also stated that Hancock returned the misappropriated funds by causing the deposit of \$11,320 into the accounts from which the funds were taken. **(FINRA Case #2009020044301)**

**Willie Lee Hines III (CRD #4306809, Registered Representative, Grayson, Louisiana)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hines failed to completely respond to FINRA requests for information. **(FINRA Case #2008015675001)**

**Shawn Armas Icely (CRD #4138764, Registered Principal, Sarasota, 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, Icely consented to the described sanction and to the entry of findings that he failed to respond to a FINRA on-the-record (OTR) interview, and informed FINRA staff that he would not appear, at any time, for an OTR interview. **(FINRA Case #2010022063501)**

**Guy Robert Ingles (CRD #1033007, Registered Representative, Omaha, Nebraska)** 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, Ingles consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information. **(FINRA Case #2009019344501)**

**Denver Arlene Kalkofen (CRD #1530241, Registered Representative, New Holstein, Wisconsin)** 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, Kalkofen consented to the described sanction and to the entry of findings that she instructed customers to make checks payable to cash or in the name of a fictitious company, and deposited the checks into her personal checking account, using the funds to gamble and pay for personal expenses. The findings stated that Kalkofen pled no contest in the Circuit Court of Calhoun County in the State of Wisconsin to four felony counts of theft in a business setting in excess of \$10,000, and two felony counts of issuing securities for improper purposes. The findings also stated that Kalkofen failed to respond to FINRA requests for information. **(FINRA Case #2008015168701)**

**Timothy Nick Kaufman (CRD #736532, Registered Principal, Indianapolis, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$9,000, which includes disgorgement of the money received for a referral, and suspended from association with any FINRA member in any capacity for 20 business days. The fine must

be paid either immediately upon Kaufman'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, Kaufman consented to the described sanctions and to the entry of findings that he participated in the sale of a universal lease programs (ULP), received \$4,000 in compensation, and failed to provide prior written notice to, or receive prior written approval from, his member firm.

The suspension was in effect from May 17, 2010, through June 14, 2010. **(FINRA Case #2009016709010)**

**Steve G. Kelly (CRD #3241767, Registered Representative, Tucson, Arizona)** 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, Kelly consented to the described sanction and to the entry of findings that he failed to amend his Form U4 to disclose material facts. The findings stated that the omissions caused his member firm to associate a person subject to a statutory disqualification for over six months. The findings also stated that Kelly failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008015104301)**

**William Blaze Krusheski (CRD #4844747, Registered Principal, Carlsbad, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Krusheski consented to the described sanction and to the entry of findings that he engaged in undisclosed outside business activities, received selling commissions from one of the outside activities, and failed to disclose his roles in the outside business activities to his member firm. The findings stated that Krusheski engaged in private securities transactions and received a commission without providing prior written notice to, or receiving written approval from, his firm. The findings also stated that Krusheski was responsible for supervising employees in a firm Office of Supervisory Jurisdiction (OSJ) branch office and, although he knew that a registered representative in the office was engaging in outside business activities for compensation, he failed to ensure that the representative provided written notice to the firm of his activities. **(FINRA Case #2008011640601)**

**Gregory Thomas Kwasnicki (CRD #2844089, Registered Representative, Red Bank, 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, Kwasnicki consented to the described sanction and to the entry of findings that he participated in a private securities transaction without prior notice to, or prior written approval from, his member firm. The findings stated that Kwasnicki failed to appear for a FINRA on-the-record interview. **(FINRA Case #2009018747101)**

**David Laifer (CRD #300673, Registered Representative, Gold Canyon, Arizona)** submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 15 months. The fine must be paid either immediately upon Laifer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying

the allegations, Laifer consented to the described sanctions and to the entry of findings that he recommended and facilitated evasion of a bar that his member firm had imposed against further purchases of a thinly-traded pink sheet penny stock by matching up customers who were interested in buying and selling the shares, providing price quotes for the stock and processing instructions to transfer shares of the stock between customers' accounts. The findings stated 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 and submitting the falsified documents to his member firm for processing. The findings also stated that Laifer caused his member firm's books and records to be inaccurate by altering documents related to customer accounts, and executed discretionary and excessive trades in a customer's non-discretionary accounts without the customer's written authorization and without his firm's acceptance of the accounts as discretionary.

The suspension is in effect from June 7, 2010, through September 6, 2011. **(FINRA Case #2007010941701)**

**Kristen Kimberly Leu (CRD #5579116, Associated Person, Flemington, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Leu's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Leu consented to the described sanctions and to the entry of findings that, while sitting for the General Securities Representative qualification (Series 7) examination, she was found to be in possession of unauthorized materials during a restroom break. The findings stated that Leu failed to timely respond to FINRA requests for information.

The suspension is in effect from May 17, 2010, through May 16, 2012. **(FINRA Case #2009018495001)**

**Gary Bennett Martin (CRD #729331, Registered Principal, Indianapolis, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Martin'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, Martin consented to the described sanctions and to the entry of findings that he signed a customer's name to a distribution form to effectuate a required minimum distribution from her IRA account. The findings stated that Martin signed the customer's name without her authorization or consent.

The suspension is in effect from June 7, 2010, through August 6, 2010. **(FINRA Case #2009018626901)**

**Robert Martin Martinez (CRD #2535606, Registered Representative, Andrews, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the

findings, Martinez consented to the described sanction and to the entry of findings that he received checks totaling \$20,000 from a non-customer, intended for investment, and improperly used the funds for his personal use. The findings stated that Martinez willfully failed to amend his Form U4 to disclose material information and failed to timely respond to FINRA requests for information and documents. **(FINRA Case #2009018362902)**

**Jeffrey Scott Mayer (CRD #873285, Registered Principal, Fresno 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 supervisory capacity for four weeks. Without admitting or denying the findings, Mayer consented to the described sanctions and to the entry of findings that he failed to reasonably supervise a registered representative in his branch office who improperly handled customer accounts.

The suspension is in effect from June 21, 2010, through July 16, 2010. **(FINRA Case #2007009423302)**

**Kevin John McPhee (CRD #2316848, Registered Representative, Syosset, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, suspended from association with any FINRA member in any capacity for five months and ordered to pay \$17,654.44, plus interest, in restitution to a customer. Without admitting or denying the findings, McPhee consented to the described sanctions and to the entry of findings that he executed transactions in a customer's account without the customer's prior knowledge, authorization or consent. The findings stated that McPhee communicated with the customer via an outside email account without his member firm's knowledge or consent.

The suspension is in effect from June 21, 2010, through November 20, 2010. **(FINRA Case #2009016763601)**

**Richard Charles Moore (CRD #1733282, Registered Representative, South Bend, 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, Moore consented to the described sanction and to the entry of findings that he solicited funds totaling \$236,100 from investors, representing that he would place their money in investments but instead converted the funds to his personal use. **(FINRA Case #2009017126401)**

**Fabrizio Dulcetti Neves (CRD #3244955, Registered Representative, Miami, 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, Neves consented to the described sanction and to the entry of findings that he failed to provide FINRA with requested documents. **(FINRA Case #2010022515501)**

**Charles Edward O'Hara IV (CRD #735399, Registered Principal, Newport, Rhode Island)** 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, O'Hara consented to the described sanctions and to the entry of findings that he borrowed \$8,000 from his member firm's customers contrary to firm procedures prohibiting registered

representatives from borrowing money from customers. The findings stated that O'Hara did not notify his firm of the loan, which he repaid.

The suspension was in effect from June 21, 2010, through July 2, 2010. **(FINRA Case #2010021348701)**

**Michael Lawrence Oromaner (CRD #2857559, Registered Representative, Huntington, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Oromaner consented to the described sanctions and to the entry of findings that he failed to follow a customer's stop loss instructions noted on a New Account Form, which Oromaner signed.

The suspension was in effect from June 7, 2010, through June 18, 2010. **(FINRA Case #2008014475901)**

**Edward William Overdyke (CRD #4706316, Registered Representative, Atlanta, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Overdyke'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, Overdyke consented to the described sanctions and to the entry of findings that he engaged in outside business activity and failed to give prompt written notice to his member firm. The findings stated that Overdyke received approximately \$22,100 in compensation for selling equity indexed annuities through a life insurance company to public customers.

The suspension is in effect from June 7, 2010, through September 6, 2010. **(FINRA Case #2008014701201)**

**Richard Aaron Paul (CRD #2768628, Registered Representative, Lakeland, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Paul'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, Paul consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or prior written approval from, his member firm. The findings stated that Paul's sale of convertible balloon promissory notes totaling approximately \$545,000 was done outside the scope of his employment with his firm and without prior written notice to his firm.

The suspension is in effect from May 17, 2010, through February 16, 2011. **(FINRA Case #2008013523101)**

**James Michael Porrazzo (CRD #3032023, Registered Representative, Long Beach, New York)** was fined a total of \$15,000 and suspended from association with any FINRA member in any capacity for consecutive terms of four months and 15 business days.

The fines are due and payable if and when Porrazzo re-enters the securities industry. The sanctions were based on findings that Porrazzo engaged in an unreported outside business activity with a customer of his member firm, which his firm prohibited. The findings stated that Porrazzo failed to disclose his participation in a horse racing venture on his firm's questionnaires, which requested the disclosure of any outside business activities, because he knew the firm would not approve. The findings also stated that Porrazzo used his personal email address to communicate with the customer about the outside business activity, contrary to the firm's written policies and procedures that required it to monitor incoming and outgoing correspondence to detect violations of firm policies.

The suspension is in effect from June 7, 2010, through October 27, 2010. **(FINRA Case #2007009436401)**

**Michael Alcide Poutre II (CRD #2482252, Registered Principal, Woodland Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Poutre'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, Poutre consented to the described sanctions and to the entry of findings that he failed to provide a complete response to FINRA requests for information and documents in a pending investigation.

The suspension is in effect from June 7, 2010, through June 6, 2012. **(FINRA Case #2009017566301)**

**Andrew James Pravlik (CRD #2360456, Registered Representative, Cabot Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Pravlik'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, Pravlik consented to the described sanctions and to the entry of findings that, in connection with mutual fund redemptions he caused to be effected for customers, Pravlik falsely coded each redemption request as a required minimum distribution (RMD) in entering it into the firm's mutual fund order entry system. The findings stated that by falsely coding the redemptions as RMDs, Pravlik improperly prevented the imposition of a contingent deferred sales charge that otherwise would have been imposed. The findings also stated that, in each instance, the conduct infringed on the contractual rights and financial interests of the mutual fund company whose shares were being redeemed, and caused his member firm's records to be inaccurate.

The suspension is in effect from May 17, 2010, through August 14, 2010. **(FINRA Case #2009019656501)**

**Angela Dionne Reed (CRD #5350720, Registered Representative, Atlanta, Georgia)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Reed failed to respond to FINRA requests for information. **(FINRA Case #2007011250901)**

**William Glenn Robbins (CRD #1298061, Registered Principal, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Robbins consented to the described sanctions and to the entry of findings that he failed to timely amend his Form U4 with material information.

The suspension is in effect from June 21, 2010, through September 20, 2010. **(FINRA Case #2009019686401)**

**Allan J. Satterfield (CRD #4087020, Registered Representative, Gainesville, Georgia)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for six months. In light of Satterfield's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Satterfield consented to the described sanction and to the entry of findings that, acting with others, he participated in a fraudulent scheme to solicit investments in an unregistered hedge fund and its general partner and, in doing so, engaged in a variety of fraudulent and deceptive sales practices, disregarding his duties and obligations of fair dealing to his customers. The findings stated that Satterfield knew, or was reckless in not knowing, that the hedge fund was engaging in a highly speculative trading strategy involving futures contracts, and that information the hedge fund manager supplied and used to solicit customers contained materially false and misleading statements and omissions. The findings also stated that Satterfield ignored many red flags, including those in the hedge fund's private placement memorandum. The findings also included that Satterfield solicited customers without conducting a reasonable investigation to determine whether the hedge fund and its general partner were suitable investments, and without regard as to whether his customers were capable of evaluating and bearing the risks associated with the investments.

The suspension is in effect from June 7, 2010, through December 6, 2010. **(FINRA Case #2005001398602)**

**Greg Scott Schaefer (CRD #1939626, Registered Principal, Bronx, New York)** was fined \$42,500 and suspended from association with any FINRA member in any capacity for one year. The fine is due and payable if and when Schaefer re-enters the securities industry. The sanctions were based on findings that, acting as his firm's Anti-Money Laundering Compliance Officer (AMLCO), Schaefer failed to ensure the implementation of independent tests of the firm's AML compliance programs. The findings stated that Schaefer did not use an independent third party to conduct the firm's AML tests; rather, he drafted reports and presented them to an unqualified administrative assistant, who signed off on the reports without conducting any AML testing. The findings also stated that Schaefer created and submitted inaccurate substitute compliance meeting attendance lists to FINRA staff during the course of FINRA's examination of Schaefer's firm and without telling FINRA staff that the sheets were recreations. The findings

also included that Schaefer failed to timely submit the administrative assistant's fingerprints to CRD, even though the individual had access to the firm's books and records, maintained the firm's check book and possessed an ink stamp of Schaefer's signature, which he used to sign firm checks. FINRA found that Schaefer failed to ensure that his firm established, maintained and enforced written supervisory control policies and procedures, and failed to ensure that an employee's fingerprints were submitted to CRD, thereby causing his firm to violate Section 17(f)(2) of the Securities Exchange Act of 1934 and Rule 17f-2 thereunder.

The suspension is in effect from May 17, 2010, through May 16, 2011. **(FINRA Case #2008012034701)**

**Ryan Nicholas Shubin (CRD #4367965, Registered Representative, Laguna Niguel, 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 one month. Without admitting or denying the findings, Shubin consented to the described sanctions and to the entry of findings that, shortly before resigning from his member firm to work at another member firm, Shubin made inaccurate changes to customer records in order to slow down other registered representatives at the firm who he believed would be assigned to call his customers after he resigned. The findings stated that by changing customer email addresses and telephone numbers, Shubin caused his member firm to create and maintain inaccurate books and records.

The suspension is in effect from June 21, 2010, through July 20, 2010. **(FINRA Case #2009016597401)**

**Lori Elizabeth Simpson (CRD #5553607, Associated Person, Ankeny, Iowa)** 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, Simpson consented to the described sanction and to the entry of findings that she wrongfully obtained \$1,120.64 from a member firm's affiliated company, and then misused the funds for her own benefit. The findings stated that the firm and its affiliated company had established company guidelines wherein certain expenses were automatically approved if the expenses fell below a certain dollar threshold, and Simpson consistently submitted expenses below the firm's established threshold for automatic approval without a supervisor reviewing them. The findings also stated that Simpson failed to respond to FINRA requests for documents and information. **(FINRA Case #2009017046701)**

**Mary Alice Siver-Walters (CRD #2510782, Registered Representative, Liverpool, New York)** 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, Siver-Walters consented to the described sanction and to the entry of findings that while serving as a Rotary Club's treasurer, she misappropriated approximately \$17,500 from the Rotary Club for her own personal use by converting cash on a weekly basis and writing checks on the club's checking account payable to cash. The findings stated that Siver-Walters admitted to converting the funds due to financial hardship and later repaid the funds. **(FINRA Case #2009017915701)**

**Jonathan Michael Skiba (CRD #2265023, Registered Representative, Frankenmuth, Michigan)** was fined \$5,000, suspended from association with any FINRA member in any capacity for one year and ordered to pay \$14,909.49, plus interest, in restitution to customers. The National Adjudicatory Council (NAC) imposed the sanctions following call for review of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Skiba recommended that customers replace their existing variable annuity contracts with a new variable annuity contract he considered to be a better product. The findings stated that Skiba circumvented his member firm's supervisory system applicable to variable annuity replacements by transferring the customers' annuity funds to a money market mutual fund prior to investing the customers' funds in a new variable annuity because he knew that he would not be entitled to full commissions if he handled the transactions as replacement sales. The findings also stated that the customers incurred surrender charges with the sale of the variable annuities, and Skiba falsely completed the applications for the new variable annuity regarding surrender charges in connection with the purchases he submitted to his firm. The findings also included that Skiba failed to give the customers the required surrender letters warning the customers that transfers might not be in their best interest and Replacement Acknowledgement Forms that disclosed surrender charges and required customer and supervisor signatures.

The suspension is in effect from July 5, 2010, through July 5, 2011. **(FINRA Case #E8A2004072203)**

**Jill Meredith Swisher (CRD #4093810 Registered Representative, West Chester, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Swisher's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Swisher consented to the described sanctions and to the entry of findings that, in order to assist financial advisors taking their LTC CE state exams, Swisher created and distributed an answer key for one state exam, and received and distributed an answer key for another state exam.

The suspension is in effect from June 21, 2010, through August 19, 2010. **(FINRA Case #2009021029603)**

**Brian David Tate (CRD #5251913, Registered Representative, Granbury, 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 five months. The fine must be paid either immediately upon Tate'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, Tate consented to the described sanctions and to the entry of findings that he signed customers' names on various documents of his member firm's affiliated bank without the customers' knowledge, authorization or consent.

The suspension is in effect from June 7, 2010, through November 6, 2010. **(FINRA Case #2009019341101)**

**Nerissa Threatt (nka Nerissa Berry) (CRD #4638075, Registered Representative, Jones, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent in which she was ordered to repay a customer \$5,800 and suspended from association with any FINRA member in any capacity for 30 days. In light of Berry's financial status, no fine was imposed. Without admitting or denying the findings, Berry consented to the described sanctions and to the entry of findings that she borrowed money from her member firm's customer, which her firm's procedures at the time prohibited, and has not repaid the loan in full.

The suspension was in effect from May 17, 2010, through June 15, 2010. **(FINRA Case #2009017840601)**

**Noble Bradford Trenham (CRD #449157, Registered Principal, Pasadena, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Trenham structured cash deposits for a customer in order to evade federal reporting requirements by obtaining cashier's checks for under \$10,000. The findings stated that Trenham functioned in a principal capacity with his member firm while being suspended in that capacity. The findings also stated that Trenham willfully failed to update his Form U4 with material information. **(FINRA Case #2007007377801)**

**Jordan Paul Zaro (CRD #854313, Registered Principal, Chicago, Illinois)** 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, Zaro consented to the described sanction and to the entry of findings that he created and delivered false account statements for a customer that falsely showed positions in municipal securities and a money market account that the customer did not own to create the impression that her total investment portfolio was worth about \$750,000 more than it really was. The findings stated that Zaro engaged in trading under oral discretionary authority in the customer's account that was unsuitable and excessive in size and frequency in view of her financial situation and needs. The findings also stated that Zaro effected discretionary trading in the customer's account without her prior written authorization and his member firm's prior written acceptance of the accounts as discretionary. **(FINRA Case #2007009851101)**

## Individual Fined

**Seyed Ahmad Hashemian (CRD #1574079, Registered Representative, Irvine, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Hashemian consented to the described sanctions and to the entry of findings that he never informed a customer of the gross purchase price of variable life settlements, and he also never informed the customer of the amount of the commissions he received in a life settlement, which was not conducted through his member firm. The findings stated that in each of the life settlements, the purchase agreement only stated the net purchase price the customer received. **(FINRA Case #2008012757901)**

## Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of May 31, 2010. 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 editions of Disciplinary and Other FINRA Actions.

**Stephen White Wilson (CRD #2235561, Registered Representative, Thousand Oaks, California)** was barred from association with any FINRA member in any capacity. The findings stated that in connection with the sale of mutual funds to customers, Wilson made fraudulent and material misrepresentations to customers intended to induce them to invest with him. The findings also stated that in connection with recommending unsuitable mutual fund switching, Wilson failed to make material disclosures to customers concerning the consequences of the switches. The findings also included that Wilson engaged in unauthorized trading by switching customers from Class B to Class C shares of mutual funds without their knowledge, authorization or consent. FINRA found that Wilson engaged in discretionary trading without written authorization from either his customers or his member firm, and caused his firm's books and records to be inaccurate by providing false information for switch logs and mismarking order tickets as unsolicited, when the orders were, in fact, solicited.

This decision has been appealed to the NAC and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case # 2007009403801)**

## Complaints Filed

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

**Leo Timothy Buggy (CRD #1064915, Registered Principal, Green River, Wyoming)** was named as a respondent in a FINRA complaint alleging that he misused customers' funds totaling in excess of \$589,000 through his purported investment recommendations to his member firm's customers. The complaint alleges that Buggy solicited his firm's customers to withdraw funds from their existing variable annuity and/or brokerage accounts and invest the withdrawn amounts in what Buggy represented to be safer, higher yield investments with the firm affiliate. The complaint also alleges that Buggy failed to invest any of the funds he received but instead caused the funds to be deposited in an account he controlled, and made improper use of the funds. The complaint further alleges that Buggy failed to respond to FINRA requests for information and documents. **(FINRA Case #2008016455801)**

**Douangchay Chounchantharat (CRD #2998644, Registered Representative, Keller, Texas)** was named as a respondent in a FINRA complaint alleging that, without authorization, she misappropriated approximately \$4,383 from her member firm's insurance affiliate, where she worked as an insurance agent, by taking customer premium payments and using them for her personal use. The complaint alleges that Chounchantharat failed to respond to FINRA requests for information and documents. **(FINRA Case #2009018050501)**

**The Dratel Group, Inc. (CRD #8049, Southold, New York) and William Marshall Dratel (CRD #843025, Registered Principal, Southold, New York)** were named as respondents in a FINRA complaint alleging that they orchestrated a cherry-picking scheme in short-term trades and failed to disclose material information to their discretionary customers regarding the scheme. The complaint alleges that, in connection with the cherry-picking scheme, the firm and Dratel falsified numerous order tickets to make it appear that they had allocated the cherry-picked trades at the time of the underlying purchases in the firm account, which was false. The complaint also alleges that Dratel, or his staff, at his instruction, regularly delayed placing the names of the customers to whom trades were allocated on order tickets until after the order was executed. The complaint further alleges that the firm's time stamp machines did not record seconds, which resulted in the firm failing to record the time in hours, minutes and seconds that orders were originated or received on all equity order tickets. In addition, the complaint alleges that the firm and Dratel failed to establish, maintain and enforce a supervisory system and written supervisory procedures that adequately addressed trade aggregation and trade allocation with respect to the firm's discretionary accounts and the manner in which client trades were to be executed; Dratel had sole responsibility for the adequacy of the firm's supervisory system and procedures. Moreover, the complaint alleges that the firm, acting through Dratel, failed to periodically update customer account information and failed to review new account documents on a quarterly basis and memorialize the review. The complaint further alleges that the firm failed to conduct a test of its AML compliance program for two years and failed to obtain photo identification for each of the new customer accounts opened during approximately 18 months. **(FINRA Case #2008012925001)**

**Sharon Elsen Givens (CRD #3208845, Associated Person, Cincinnati, Ohio)** was named as a respondent in a FINRA complaint alleging that, as her member firm's bookkeeper, she had access to the firm's checking account and forged the firm's treasurer's signature on checks totaling approximately \$61,000 written against the firm's checking account. The complaint alleges that Givens committed conversion by making the checks payable to herself, cashing the checks and using the funds for her own benefit or for some purpose other than the firm's benefit. The complaint also alleges that because Givens reconciled the firm's checking account, she was able to conceal her repeated conversion of funds. **(FINRA Case #2008014705101)**

**Peggy Sue Harrell (CRD #4460320, Registered Representative, Brandon, Mississippi)** was named as a respondent in a FINRA complaint alleging that she obtained loans from the bank affiliate of her member firm in the names of a relative and another individual by using certificates of deposit (CDs) in the relative's name as collateral, deposited the loan proceeds in her bank account and withdrew money from the CDs, all without the relative's knowledge or permission. The complaint alleges that Harrell embezzled in excess of \$1,000 from the bank by fraudulently creating debit tickets from the bank's general ledger accounts and depositing the money into her own account. The complaint also alleges that Harrell failed to respond to FINRA requests for information. **(FINRA Case #2009019962301)**

**Antonio Herrero-Rovira (CRD #1878587, Registered Representative, Rio Piedras, Puerto Rico)** was named as a respondent in a FINRA complaint alleging that he converted approximately \$219,000 in customer funds by forging, or causing the forgery of, customers' signatures on Letters of Authorization (LOAs) and firm checks issued pursuant to the LOAs and using the proceeds for personal purposes without the customers' knowledge or authorization. The complaint alleges that Herrero-Rovira failed to respond to FINRA requests for documents and information. **(FINRA Case #2008013833601)**

**MICG Investment Management, LLC (CRD #104028, Newport News, Virginia) and Jeffrey Alan Martinovich (CRD #2258793, Registered Principal, Newport News, Virginia)** were named as respondents in a FINRA complaint alleging that they sold investors units of a hedge fund that they organized, controlled and managed, and improperly, unreasonably and/or recklessly assigned unjustifiably high values to the assets and stocks, never relying on independent or legitimate valuations or valuation methods, giving rise to improper incentive and management fee payments. The complaint alleges that the firm and Martinovich contrived excessive and unwarranted share values in order to create an ostensibly legitimate basis for the hedge fund to pay the firm a substantial incentive fee and management fees that the firm was not entitled to receive, thereby misusing customer funds. The complaint also alleges that instead of returning excessive incentive performance fees to the hedge fund, the firm and Martinovich improperly and wrongfully retained possession of the funds and wrongfully used or disposed of them in the firm's operations or otherwise. The complaint further alleges that the firm and Martinovich made material representations and omissions of fact in the private placement memoranda through which they sold the hedge fund units, and sent customers account statements that were materially false and misleading. In addition, the complaint alleges that Martinovich recommended and effected an unsuitable purchase of the hedge fund to a firm customer without having reasonable grounds for believing the transaction was suitable for him, and in making the recommendation, Martinovich failed to disclose material facts to the customer concerning Martinovich's self-interest in the recommended purchase. **(FINRA Case #2009016230501)**

**Michael Anthony Nemcik (CRD #5405918, Registered Representative, Tampa, Florida)** was named as a respondent in a FINRA complaint alleging that he executed an unauthorized transaction in a customer's account even though the customer had not granted him discretionary trading authority and did not authorize the purchase. The complaint alleges that Nemcik failed to respond to FINRA requests for additional information. **(FINRA Case #2009017374501)**

**Heather D. Pepo (CRD #4858338, Registered Representative, Dallastown, Pennsylvania)** was named as a respondent in a FINRA complaint alleging that, while dually employed by a member firm and its bank affiliate, she wrongfully converted approximately \$12,148 of the bank's funds by crediting her personal checking and savings accounts at the bank without its knowledge or authorization. The complaint alleges that Pepo failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008014734701)**

**Jeffrey B. Pierce (CRD #3190666, Registered Representative, Waltham, Massachusetts)** was named as a respondent in a FINRA complaint alleging that he circumvented his member firm's procedures in order to conceal unsuitable annuity replacement transactions. The complaint alleges that in each of the replacement transactions, the customer sold a fixed or variable annuity at Pierce's recommendation and/or with his knowledge, and purchased another variable annuity that Pierce recommended, and Pierce effected all of the sales and purchases separately rather than as replacements as his firm's procedures required, thereby concealing the transactions from his firm and allowed him to reap the benefit of a new commission without the same level of supervisory scrutiny that would have been associated with the review of replacement/exchange transactions. In addition, he was able to avoid the use of the firm's Switch Form which would have provided the customers with important information and disclosures regarding the surrender charges and other costs. The complaint also alleges that Pierce failed to disclose on his firm's transaction documents that another annuity was a source of funds for the replacement variable annuity, and falsely listed other sources as the sole funding source for the new variable annuity. The complaint further alleges that Pierce willfully failed to disclose material facts to customers in connection with replacement transactions and recommended and effected unsuitable transactions in customer accounts without having reasonable grounds for believing that the transactions were suitable in light of the customers' financial situation, investment objectives and needs. In addition, the complaint alleges that Pierce provided false information to his firm on questionnaires, misrepresenting that certain replacement customers had not incurred any adverse tax consequences through their annuity sales. **(FINRA Case #2007010902501)**

**Alan D. Schell (CRD #4955739, Registered Representative, Glen Burnie, Maryland)** was named as a respondent in a FINRA complaint alleging that he converted \$17,410 from CDs belonging to a bank customer in the form of cash or money order using handwritten withdrawal slips with the customer's signature at the bottom. The complaint alleges that neither the customer, his relative with power of attorney, the bank nor the firm gave Schell permission to withdraw the funds from the CDs. The complaint also alleges that Schell admitted, both verbally and in writing, that he made the unauthorized withdrawals from the customer's CDs and used the money to fund an inner city girls' basketball team he coached. The complaint further alleges that Schell failed to respond to FINRA requests for information and documents. **(FINRA Case #2009017694001)**

**Firms Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

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

**Carmichael Securities Company L.L.C.**  
Phoenix, Arizona  
(May 25, 2010)

**Cullum & Burks Securities, Inc.**  
Dallas, Texas  
(May 25, 2010)

**Doding & Partners Brokerage, Inc.**  
Pulheim-Stommeln, Germany  
(May 25, 2010 - June 4, 2010)

**Emerald Investments, Inc.**  
New York, New York  
(May 25, 2010)

**First Legacy Securities, LLC**  
Atlanta, Georgia  
(May 25, 2010)

**Investors Advisory Services, LLC**  
Brentwood, Tennessee  
(May 25, 2010)

**Kipling Jones & Co., LTD**  
Houston, Texas  
(May 25, 2010 – June 10, 2010)

**KRK Limited**  
Palatine, Illinois  
(May 25, 2010 – June 2, 2010)

**MACMAR Investment Corporation**  
Akron, Ohio  
(May 25, 2010)

**Moran Securities, Inc.**  
Chicago, Illinois  
(May 25, 2010)

**Newpoint Securities, LLC**  
Woodland Hills, California  
(May 25, 2010)

**OCNAYR**  
Fort Lauderdale, Florida  
(May 25, 2010)

**Polynous Securities, LLC**  
San Francisco, California  
(May 25, 2010)

**Trevor, Cole, Reid, & Monroe, Inc.**  
New York, New York  
(May 25, 2010)

**Firms 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.)

**Empire Securities Corporation**  
El Segundo, California  
(May 12, 2010)

**Maxxtrade, Inc.**  
Lexington, Kentucky  
(May 27, 2010)

**Private Asset Group, Inc.**  
Costa Mesa, California  
(May 12, 2010)

**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.)

**Denis William Kraemer Jr.**  
West Babylon, New York  
(May 4, 2010)

**Patrick Emanuel Curry Jr.**  
Staten Island, New York  
(August 5, 1998 – May 5, 2010)

**Individuals Barred Pursuant to FINRA Rule 9552(h)**

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

**Chisako Furukawa**  
Teaneck, New Jersey  
(May 17, 2010)

**Daisy Lonigro**  
Wesley Chapel, Florida  
(May 27, 2010)

**James Joseph Lonigro**  
Wesley Chapel, Florida  
(May 27, 2010)

**Kristen A. Miyake**  
Chatsworth, California  
(May 21, 2010)

**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.)

**Juan D. Fernandez**  
Coral Gables, Florida  
(May 21, 2010)

**Douglas Michael Lee**  
Virginia Beach, Virginia  
(May 20, 2010)

**Justin Wesley Markham**  
Collierville, Tennessee  
(May 21, 2010)

**Sean Patrick McDonnell**  
Philadelphia, Pennsylvania  
(May 17, 2010)

**Nolan Wayne Moore**  
Beaumont, California  
(May 21, 2010)

**Patrick Edward Muldoon**  
Springfield, Pennsylvania  
(May 6, 2010)

**Alexander Edward Norman**  
Brooklyn, New York  
(May 13, 2010)

**Frederick Roy Schwimmer**  
Winnetka, Illinois  
(May 13, 2010)

**Julie Strachan Taylor**  
Spring, Texas  
(May 27, 2010)

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

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

**Daniel Peter Ashby**  
Yuba City, California  
(May 17, 2010)

**Frank Julian Bluestein**  
Milford, Michigan  
(May 26, 2010)

**Michael Kipland Czerny**  
Grosse Pointe, Michigan  
(May 26, 2010)

**Charles Lorne Davey**  
Superior, Colorado  
(May 7, 2010)

**Jamie Lydell Dick**  
Henderson, Nevada  
(May 17, 2010)

**William Allen Ferguson**  
Raleigh, North Carolina  
(May 7, 2010)

**Jeffrey C. Finder**  
New York, New York  
(May 17, 2010)

**Joseph Anthony Galbo**  
Boca Raton, Florida  
(May 26, 2010)

**Mark David Gandossy**  
Matthews, North Carolina  
(November 6, 2009 – May 7, 2010)

**Carlos Antonio Garceran**  
Mendham, New Jersey  
(July 17, 2003 – May 26, 2010)

**Desiree H. Lu**  
El Monte, California  
(May 17, 2010)

**Shawn Menz**  
Pickerington, Ohio  
(May 17, 2010)

**Stephen Francis Morton**  
Mission Viejo, California  
(May 17, 2010)

**Edward Thomas O'Connor**  
Boston, Massachusetts  
(May 17, 2010)

**John Joseph Plunkett**  
Brooklyn, New York  
(May 6, 2010)

**David Michael Raack**  
League City, Texas  
(May 7, 2010)

**Richard John Riccio**  
Huntington, Connecticut  
(May 17, 2010)

**Tracy Brian Seegott**  
Palm City, Florida  
(May 7, 2010)

**Bret Nelson Shofner**  
Boca Raton, Florida  
(May 7, 2010)

**Bradley Adam Sustrin**  
Cooper City, Florida  
(May 26, 2010)

**Kevin Michael Trizila**  
Dallas, Texas  
(May 7, 2010)

**Florida Broker Barred for Selling Phony Financial Products, Taking More Than \$1.9 Million From Clients**

**Broker Created False Documents to Further Scheme, Induce Customers to Invest in Fictitious CDs and Bonds**

The Financial Industry Regulatory Authority (FINRA) announced that it has permanently barred Ponte Vedra Beach, FL, registered representative Michael J. DiMare from the securities industry for misappropriating over \$1.9 million in client funds—while making false statements and sending falsified account statements and other documents statements to his customers to hide his scheme.

"FINRA will continue to bar individuals who engage in deceit and theft with no regard for the high standards of ethical conduct that govern the industry," said James S. Shorris, FINRA Executive Vice President and Executive Director of Enforcement. "By deceiving customers into believing they were making legitimate investments when, in reality, he was simply enriching himself, DiMare epitomized the darkest side of the securities industry."

FINRA found that from at least 2001 to 2008, DiMare persuaded his clients to invest in fictitious financial products, including what purported to be tax-free corporate bonds and CDs. Between 2001 and 2006, DiMare was employed as a sales manager with John Hancock Mutual Life Insurance Company. Between October 2006 and May 2008, DiMare was registered as a registered representative/insurance agent with ING Financial Partners, Inc.

FINRA's investigation found that 14 of DiMare's clients wrote checks payable to John Hancock, believing they were making legitimate investments. DiMare simply collected the checks and deposited them in his own bank account and diverted their funds to his personal use. Even after he left John Hancock, DiMare made false statements to his customers by telling them he was still employed at that firm and had them write checks to John Hancock, which he then converted to his own use.

To conceal his misconduct, DiMare prepared and provided his clients with false account statements purporting to be from John Hancock. Those statements falsely indicated that the clients owned investments in tax-free corporate bonds and CDs.

Customers whose funds were misappropriated or converted by DiMare were reimbursed by John Hancock and ING.

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

### **FINRA Fines Deutsche Bank Securities, National Financial Services a Total of \$925,000 for Systemic Short Sale Violations**

#### **Both Firms Facilitated Customer Execution of Short Sales Through Direct Market Access Order Systems That Violated the 'Locate' Requirement of Regulation SHO**

The Financial Industry Regulatory Authority (FINRA) announced that it has fined two broker-dealers a total of \$925,000 for executing numerous short sale orders in violation of Regulation SHO and for related supervisory violations. FINRA fined New York's Deutsche Bank Securities \$575,000 and Boston's National Financial Services (NFS) \$350,000.

Regulation SHO requires that a broker or dealer may not accept or effect a short sale order in an equity security without reasonable grounds to believe that the security can be borrowed, so that it can be delivered on the date delivery is due. Identifying a source from which to borrow such security is generally referred to as obtaining a "locate." Locates must be obtained and documented prior to effecting a short sale.

Both Deutsche Bank and NFS implemented Direct Market Access trading systems for their customers that were designed to block the execution of short sale orders unless a "locate" had been obtained and documented. But FINRA found that Deutsche Bank disabled its system in certain instances and NFS created a separate system for certain customers—so that in both instances, the systems no longer blocked some short sale orders that did not have valid, associated locates.

"The locate requirement is an essential component of ensuring that short sales are executed properly," said James S. Shorris, FINRA Executive Vice President and Acting Chief of Enforcement. "The failure to design, implement and supervise systems that reasonably ensure that shares of a security are available to be borrowed before a short sale is executed significantly undermines the effectiveness of Regulation SHO."

FINRA's review of a sample of short sale orders at both firms revealed that some short sale orders entered through the Direct Market Access trading systems were released for execution without any evidence that a locate had actually been obtained.

In Deutsche Bank's case, the firm's systems sometimes experienced outages that prevented the importing of locate data and, as a result, short sale orders placed for execution were automatically rejected, even when a client had already obtained a valid and properly documented locate. FINRA found that during these system outages, Deutsche Bank disabled the system's automatic block, permitting client short sale orders to automatically proceed for execution without first confirming the presence of an associated locate.

FINRA found that in addition to its automated process, NFS created a separate manual locate request and approval process for approximately 12 of the firm's prime brokerage clients, which preferred to obtain locates in multiple securities prior to commencement of the trading day. Requests for, and approvals of, the multiple simultaneous locates were transmitted via email exchanges with account representatives on the firm's Prime Services Desk, and were not required to be entered into the firm's stock loan system at the time of approval. Further, prime clients were allowed to enter and

execute their orders through automated platforms that did not have the functionality to automatically block execution of a short sale order that did not have a valid and documented locate.

FINRA also found that neither Deutsche Bank nor NFS performed a meaningful post-trade date review of short sale orders to identify short sale orders executed without a valid, associated locate having been obtained or documented.

Further, FINRA found that both firms implemented inadequate supervisory systems in connection with their Regulation SHO compliance. Deutsche Bank was aware that its system to block short sale orders in the absence of locates was periodically disabled over a period of more than four years (from January 2005 through September 2009), but failed to devise or implement a replacement procedure. Similarly, NFS created a flawed system for certain customers that failed to ensure that certain short sale orders had valid and timely locates associated with them. NFS's flawed system operated for nearly four years (from January 2005 through August 2008).

#### **FINRA Fines Piper Jaffray \$700,000 for Email Retention Violations, Related Disclosure, Supervisory and Reporting Violations**

**Firm Failed to Disclose that Email Retention Deficiencies Impacted its Ability to Respond Fully in FINRA Investigations**

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Piper Jaffray & Co. \$700,000 for violations related to its failure to retain approximately 4.3 million emails from November 2002 through December 2008. Piper Jaffray also failed to inform FINRA of its email retention and retrieval issues, which impacted the firm's ability to comply completely with email extraction requests from FINRA. It also may have affected the firm's ability to respond fully to email requests from other regulators or from parties in civil litigation or arbitrations.

"Email retention is a critical regulatory requirement with which broker-dealers must comply," said James S. Shorris, FINRA Executive Vice President and Acting Director of Enforcement. "Piper Jaffray failed to disclose that it was not making complete production of its emails due to intermittent problems with its systems—potentially preventing production of crucial evidence of improper conduct by the firm and its employees."

Piper Jaffray had previously been sanctioned for email retention failures in November 2002, in a joint action by the Securities and Exchange Commission, New York Stock Exchange Regulation and NASD arising from investigations of the firm's conflicts of interest between its investment banking and research departments. As part of that settlement, Piper Jaffray was required to review its systems and certify that it had established systems and procedures designed to preserve electronic mail communications. The firm made that certification to regulators in March 2003. At no time did the firm alert regulators that its system was experiencing problems.

FINRA discovered Piper Jaffray's continuing email retention deficiencies when its investigators requested all emails sent or received by a former firm employee suspected of misconduct. The firm provided a CD-ROM purportedly containing all of the employee's emails, on both his firm and Bloomberg email accounts. When reviewing the CD-ROM's contents, however, FINRA discovered that one particular email was not produced that investigators had already obtained in hard copy form—an email whose contents sparked an internal investigation that led to the employee's termination, and formed the basis for a FINRA enforcement action against the employee. Only after further inquiries about that missing email did the firm finally inform FINRA of the intermittent email retention and retrieval issues it had been experiencing firmwide since the November 2002 action.

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

**Citigroup Pays \$1.5 Million for Supervisory Failures Related to Elaborate Scheme to Misappropriate Millions in Trust Funds Belonging to Cemeteries Located in Michigan and Tennessee**

The Financial Industry Regulatory Authority (FINRA) announced that it has imposed a monetary sanction of \$1.5 million against Citigroup Global Markets Inc. for supervisory violations relating to its handling of trust funds belonging to cemeteries in Michigan and Tennessee. The sanction represents a \$750,000 fine and disgorgement of \$750,000 in commissions, which is being returned to the cemetery trusts as partial restitution.

"Firms have a duty to protect customer funds by taking prompt and meaningful action when they encounter indications of possible fraud or misappropriation," said James S. Shorris, FINRA Executive Vice President and Executive Director of Enforcement. "That duty is particularly critical when firms handle trust funds where the beneficiaries may be unsophisticated investors who are unaware of how the funds are being handled."

Citigroup consented to findings that, from September 2004 through October 2006, Citigroup broker Mark Singer and two of his customers were involved in a scheme to misappropriate an amount alleged in various legal actions to be over \$60 million in cemetery trust funds. One of Singer's customers, Clayton Smart, is currently facing criminal charges arising from the scheme in Tennessee and in Michigan. Singer's criminal trial in Tennessee recently ended in a mistrial. He still faces criminal charges in Indiana. Smart and the second customer, Craig Bush, have been named in civil litigation arising from the scheme.

Singer's two customers, Smart and Bush, were successive owners of a group of Michigan cemeteries from which funds were believed to be stolen. In August 2004, Smart purchased the cemeteries from Bush using trust funds that had been improperly transferred from the Michigan cemeteries themselves to a company that Smart owned. Soon afterwards, Smart used additional trust funds to buy cemeteries and funeral homes in Tennessee.

FINRA found that a Citigroup branch manager had recruited Singer from another broker-dealer, where the scheme originated. When Singer began working for Citigroup in September 2004, he brought nearly all of his customer accounts with him, including the cemetery trust accounts and other accounts belonging to Bush. Singer assisted Bush and Smart in opening numerous Citigroup accounts in their own names, as well as in the names of corporate entities they owned or controlled. Singer helped Bush and Smart deposit cemetery trust funds into some of these accounts and then effect improper transfers to third parties, sometimes using conduit accounts to mask the transactions. Some of the fund transfers were disguised as fictitious investments made on behalf of the cemeteries.

FINRA's investigation showed that over a period of more than two years, Citigroup failed to reasonably supervise the handling of these accounts by inadequately responding to a succession of "red flags"—failures that permitted the scheme to continue undetected until October 2006.

The red flag events began in September 2004, shortly after Singer began working at Citigroup. Singer's previous employing broker-dealer warned Citigroup about irregular movement of funds involving accounts connected to the Michigan cemetery trusts—activity that occurred before Bush moved his accounts to Citigroup and while Bush was still owner of the Michigan cemeteries. After receipt of this information, however, FINRA found that Citigroup's follow-up of the activity in Bush's accounts was superficial and incomplete.

By November 2004, Citigroup's management became aware of rapid movement of funds involving Citigroup accounts associated with Bush and Smart—including unusual transfers of cemetery trust funds to accounts opened in the names of third parties—but failed to conduct an adequate inquiry into the matter. In February 2005, Citigroup received information indicating possible misrepresentations by Smart regarding his acquisition of hedge fund investments belonging to the Michigan cemetery trusts, which Smart used as collateral for a personal \$24 million line of credit from Citigroup Private Bank. Again, Citigroup failed to conduct an adequate inquiry.

Finally, in May 2006, Citigroup received a whistleblower letter – from the principal of a company acting as a third-party trustee for the cemeteries—alleging misconduct by Singer in connection with the handling of the cemetery trusts. Among other things, this letter alleged Singer's involvement with unauthorized transfers of cemetery trust funds, as well as Singer's use of his personal email address to conduct business with the whistleblower, in an apparent attempt to bypass the firm's email monitoring system. Despite the seriousness of these allegations, Citigroup failed to enhance supervision of Singer or restrict his activities.

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