

# Disciplinary and Other FINRA Actions

## Firm Expelled, Individual Sanctioned

**CMG Institutional Trading, LLC (CRD® #47264, Chicago, Illinois) and Shawn Derrick Baldwin (CRD #4281564, Registered Principal, Chicago, Illinois).**

The firm was expelled from FINRA® membership and Baldwin was barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm, acting through Baldwin, participated in securities-related activities without employing a qualified municipal securities principal; failed to timely file quarterly lists of issuers with which it engaged in a municipal securities business; and failed to adopt, maintain and enforce written supervisory procedures reasonably designed to ensure that the conduct of the broker and associated persons in municipal securities activities are in compliance with Municipal Securities and Rulemaking Board (MSRB) rules and that the procedures shall codify the broker's supervisory system for ensuring compliance. The findings stated that the firm permitted Baldwin to engage in its securities business even though his registration was inactive because he had failed to complete a continuing education course. The findings also stated that the firm, acting through Baldwin, had an inadequate Anti-Money Laundering (AML) compliance program, in that it failed to verify customer identification information, conduct independent testing of its AML program, designate a person to transmit contact information to FINRA and to provide AML training for two years. The findings also included that the firm, acting through Baldwin, failed to timely create and maintain a business continuity plan and engaged in securities transactions without a qualified financial and operations principal (FINOP).

FINRA found that the firm, acting through Baldwin, conducted a securities business while its net capital was below the required minimum; failed to prepare an accurate general ledger, trial balances and books and records; and failed to file an annual audit report and a quarterly Financial and Operational Combined Uniform Single (FOCUS™) report. FINRA also found that the firm and Baldwin failed to file an application for approval of a material change in its business operations even though it participated in an offering as an underwriter on a firm commitment basis, and disseminated sales literature that contained numerous inaccuracies and misrepresentations. (FINRA Case #2006006890801)

## Reported for August 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).

## Firms Fined

**Beech Hill Securities, Inc. (CRD #24771, 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 municipal securities transaction reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of time of trade. The findings stated that the firm failed to report the correct execution time to the RTRS in reports of municipal securities transactions and improperly reported one purchase and sale transaction effected in a municipal security to the RTRS when the inter-dealer delivery was a “step-out” and thus, was not an inter-dealer transaction reportable to the RTRS. 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 MSRB rules concerning municipal securities transaction reporting. **(FINRA Case #2009018115401)**

**Brookville Capital Partners LLC fka New Castle Financial Services LLC (CRD #102380, Uniondale, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$200,000 and required to retain an independent consultant to conduct a review of the adequacy of its policies, systems, procedures and training regarding AML rules and regulations; compliance with Section 5 of the Securities Act of 1933; and rules and regulations relating to private placements, financial requirements, customer complaints and supervision. In addition, the firm was required to have its associated persons complete 16 hours of AML continuing education training and to fully and promptly cooperate with FINRA in any and all investigations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, acting through its chief compliance officer (CCO), it failed to establish and implement an adequate AML program and related procedures; adequately identify, investigate and respond to red flags of suspicious activities; timely file a Suspicious Activity Report (SAR); and provide AML training for firm personnel for one year. The findings stated that the firm, acting through a registered representative, improperly facilitated the distribution of approximately 20 million shares of various unregistered securities, and the firm, acting through the registered representative and CCO, failed to perform adequate searching inquiries and take necessary steps to ensure that transactions did not involve distributions of unregistered and/or restricted securities. The findings also stated that the firm, acting through a registered representative and firm principal, sold securities to public investors using a private placement memorandum that omitted to disclose a convicted felon’s association with the issuer, a material fact to any reasonable investor. The findings also included that the firm, acting through a registered representative, operated an unregistered branch office, in violation of the restriction on business expansion contained in its membership agreement, and acting through a registered representative, who was located in the unregistered branch office, engaged in improper telephone solicitations by making materially false representations and omitting material facts in connection with the offer of securities and by using misleading telemarketing scripts that a registered principal had not approved.

FINRA found that the firm, acting through various FINOPs, failed to maintain accurate financial books and records, filed inaccurate FOCUS reports and operated a securities business while under minimum net capital requirements. FINRA also found that the firm, acting through the CCO and other compliance officers, failed to forward customer funds it received in connection with contingency offerings to an escrow agent by noon of the next business days after receipt of such fund; adequately review and approve customer correspondence; timely and accurately report customer complaints; timely update Uniform Applications for Securities Industry Registration or Transfer (Forms U4) and Uniform Termination Notices for Securities Industry Registration (Forms U5); comply with the Firm Element of the Continuing Education Requirement for a year; conduct an annual compliance meeting; and establish an adequate business continuity plan, which consequently led to the loss of access to certain customer records upon termination of its relationship with a particular clearing firm. In addition, FINRA determined that the firm had additional supervisory deficiencies, including that its written supervisory procedures failed to establish adequate procedures for review of producing managers' customer account activities, it failed to have written supervisory procedures for identifying producing managers that should be subject to heightened supervision, and failed to place certain producing managers on heightened supervision, in that, acting through various individuals, the firm failed to clearly assign each registered person to an appropriately registered representative and/or principal responsible for supervising that person's activities, and designate principals with actual authority to carry out the supervisory responsibilities over the firm's business. FINRA found that the firm, acting through a supervising principal, failed to reasonably supervise registered representatives working out of the unregistered branch office. FINRA also found that the firm, acting through firm officers, failed to establish and maintain a supervisory system reasonably designed to supervise the sales activities of firm personnel conducted outside of its registered offices, and failed to establish and maintain a supervisory system for determining whether customer securities were properly registered or exempt from registration. FINRA further found that the firm, acting through its CCO, failed to implement adequate procedures to ensure that the firm did not telephone persons who stated they did not wish to receive calls and/or who registered on the national do-not-call registry, and failed to adequately update and maintain a do-not-call list. FINRA also found that the firm, acting through various supervisors, failed to perform heightened supervision over numerous individuals. (FINRA Case #2008011678303)

**Chapin Davis, Inc. (CRD #28116, Baltimore, Maryland)** 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 Order Audit Trail System (OATS™) reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its Reportable Order Events (ROEs) to OATS on numerous business days. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. (FINRA Case #2007009924501)

**Citigroup Global Markets Inc. (CRD #7059, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$150,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted inaccurate Form U5 filings for registered representatives who were terminated or voluntarily resigned following allegations of theft, fraud, violations of investment-related rules or failure to supervise investment-related rules. The findings stated that in its required regulatory filings for most of those terminations, the firm inaccurately answered “no” to the termination disclosure question on the Form U5 that inquired about such allegations. The findings also stated that the firm failed to establish, maintain and implement an adequate supervisory system and written procedures that were reasonably designed to achieve compliance with its obligation to complete and submit accurate Form U5 filings. **(FINRA Case #2009019551901)**

**Edward D. Jones & Co., L.P. (CRD #250, Saint Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$200,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain and enforce a supervisory system, including written supervisory procedures that were reasonably designed to review and monitor all transmittals of funds from customer accounts to third-party accounts. The findings stated that the firm relied on a defective report to review and monitor third-party wires from customer accounts, and failed to properly test and verify that the system providing the report was functioning properly. The findings also stated that the report failed to identify wires from accounts from which a registered representative of the firm was converting funds totaling over \$3 million in customer funds. **(FINRA Case #2007010537701)**

**Goldman, Sachs & Co. (CRD #361, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and required to revise its written supervisory procedures with respect to the validation of data on blue sheet submissions. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report accurate trading information by failing to include the ticker symbol for numerous electronic blue sheet record submissions. 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 the validation of data on blue sheet submissions. **(FINRA Case #2009016818501)**

**HSBC Securities (USA) Inc. (CRD #19585, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$375,000. The customers received full restitution from the firm, totaling approximately \$320,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it offered collateralized mortgage obligation securities (CMOs), which its registered representatives sold to retail customers, and included among these CMO sales were the sales of inverse floating rate CMOs (Inverse Floaters), a riskier type of CMO that FINRA has advised is suitable only for sophisticated investors with a high risk profile. The findings stated that the firm failed to establish and maintain a supervisory system and written procedures regarding the sale of CMOs to customers that were reasonably designed to achieve compliance with applicable

securities laws, regulations and FINRA rules. The findings also stated that the firm failed to establish and maintain a system and written procedures reasonably designed to supervise whether CMO sales were suitable for its customers and that the attendant risks of the products were fully explained. The findings also included that the firm did not provide its registered representatives who sold CMOs with sufficient guidance or training relating to CMOs.

FINRA found that the firm did not comply with the requirements that firms should offer certain educational materials before the sale of a CMO to any person other than an institutional investor; and the educational materials must include the characteristics and risks of CMOs, in general, and the specific characteristics and risks associated with the different tranches of a CMO. FINRA also found that the firm did not issue any procedures or compliance memos to advise its registered representatives that they were required to offer written educational materials to their customers before selling them CMOs; and the only materials related to CMOs that the firm's registered representatives could give to their customers did not comply with the content standards of NASD® Rule 2210(d)(1); failed to discuss inverse floaters; and failed to include a section on risks associated with purchasing CMOs. In addition, FINRA determined that the registered representatives did not offer the brochure to every CMO investor, nor did they know that they were required to give the materials to all potential CMO investors before selling them a CMO. Moreover, FINRA found that the firm did not implement an adequate supervisory system and procedures relating to the sale of inverse floaters; as a result, its registered representatives made unsuitable sales of inverse floaters to retail customers, and the registered representatives' supervisors pre-approved some of those transactions and some registered representatives did not fully disclose material facts regarding the risks and characteristics of inverse floaters. (FINRA Case #2007010582702)

**Lazard Capital Markets LLC (CRD #134736, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$550,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it improperly engaged in a course of practice of using the firm's error account to effect price adjustments for agency trades for its largest institutional client done primarily on the floor of the New York Stock Exchange (NYSE). The findings stated that the firm executed equity orders for the client, the vast majority of which were "not held" orders, and for a significant portion of these trades, the firm adjusted the price in favor of the client; that is, it provided the client with a price that was better than the firm's actual average execution price on the NYSE floor. The findings also stated that the firm adjusted the prices on client's orders and made these adjustments through the firm's error account even though no *bona fide* trading error had occurred. The findings also included that while executing these orders, on certain trades, the firm provided inaccurate communications to the client concerning the prices it obtained throughout the day, and failed to maintain the Financial Information Exchange Protocol (FIX) system communications.

FINRA found that the firm knew, or should have known, its traders were misusing the equity error account but failed to stop the practice, and failed to supervise trading and the use of the firm's error account. FINRA also found that the firm failed to maintain adequate policies and procedures with respect to trading and the use of its equity error

account. In addition, FINRA determined that the firm had no system to ensure that price adjustments that did not constitute errors were not entered into the equity error account. Moreover, FINRA found that the firm failed to establish and maintain adequate supervisory systems and written procedures, created inaccurate books and records, and failed to maintain required records. **(FINRA Case #2006005179801)**

**National Securities Corporation (CRD #7569, Seattle, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to file an application for NASD approval of material changes in its business operations when the number of offices the firm maintained increased. The findings stated that the firm failed to establish and maintain a supervisory system and written supervisory procedures reasonably designed to achieve compliance with NASD Rule 1017, in that its procedures did not require the monitoring of the number of offices the firm maintained in order to determine whether an application for approval of material changes in its business operations might be necessary. **(FINRA Case #2007010500101)**

**Neuberger Berman LLC (CRD #2908, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$80,000 and required to revise its written supervisory procedures regarding municipal bond reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of time of trade. 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 MSRB rules concerning municipal bond reporting. **(FINRA Case #2007010163201)**

**Portales Partners, LLC (CRD # 112311, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it did not have a qualified individual to supervise the conduct of the firm's head of research, who was a senior research analyst—but instead permitted senior principals to supervise the analyst when they were not qualified to do so. The findings stated that the firm reviewed and approved its research reports prior to use, but did not evidence such approval; as a result, the firm issued research reports that were not approved by a registered principal's signature or initial. The findings also stated that the firm failed to adopt or implement written supervisory procedures reasonably designed to achieve compliance with applicable rules regarding the supervision of research activity and the approval of research reports. The findings also included that for two years, the firm failed to attest annually that it had adopted and implemented such procedures, and that the firm failed to make or obtain research analyst attestations in connection with their public appearances as Securities and Exchange Commission (SEC) Regulation AC required. **(FINRA Case #2009016184701)**



**QA3 Financial Corp. (CRD #14754, Omaha, Nebraska)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its ROEs to OATS for a market participant identifier (MPID) it was required to transmit to OATS on numerous business days. 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 to ensure that all data that was required to be reported to OATS was being reported. **(FINRA Case #2008015021101)**

**Quantlab Securities LP (CRD #119955, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent 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 failed to timely report ROEs to OATS; transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data; and transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors, and the firm failed to repair most of the rejected ROEs. **(FINRA Case #2007009279401)**

**Raymond James Financial Services, Inc. (CRD #6694, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$150,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to enforce its written supervisory procedures to achieve compliance with suitability requirements as they relate to the sale of Internal Revenue Code Section 529 college savings plans (529 Plans). The findings stated that the firm's written supervisory procedures required its registered representatives, including producing branch managers, to submit, at the time of a client purchase of a 529 Plan, a Form #1529 (529 Plan Account Client Disclosure Form) as well as the 529 plan application to an appropriately licensed principal to ensure, among other things, that all 529 plans offered outside of a client's state of residence were suitable in light of state tax laws, fund performance, commissions and plan fees; and the firm's compliance department relied on the branch to forward the forms to it for tracking. The findings also stated that a FINRA investigation revealed a significant number of deficiencies with respect to the firm's implementation of its written supervisory procedures pertaining to the accurate and timely completion of Forms #1529. The findings also included that some firm branch managers functioned as municipal securities principals, reviewing and approving 529 plan transactions, while failing to be registered and/or qualified in an appropriate municipal securities principal capacity. **(FINRA Case #2007010730701)**

**Solaris Securities, Inc. (CRD #31998, San Antonio, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$85,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its ROEs to OATS

that it was required to transmit on numerous business days. The findings stated that the firm transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the corresponding new order the destination member firm transmitted due to inaccurate, incomplete or improperly formatted data; and these reports represented all of the match-eligible Route or Combined Order/Route Reports that it transmitted during this period. The findings also stated that the firm failed to transmit other ROEs to OATS on numerous business days. 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. FINRA found that the firm transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data. FINRA also found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning OATS reporting, 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 OATS reporting. (FINRA Case #2006004836801)

**Spartan Securities Group, LTD (CRD #104478, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to pay \$50, plus interest, in restitution to an investor. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute customer limit orders after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. The findings stated that the firm accepted and held customer market orders, traded for its own account at prices that would have satisfied the customer market orders, and failed to immediately thereafter execute the customer market orders. The findings also stated that the firm executed short sale orders and failed to properly mark the orders as short. The findings also included that when the firm acted as principal for its own account, it failed to provide written notification disclosing to its customer that was a market maker in the security, and failed to provide written notification disclosing to its customer that the transaction was executed at an average price and failed to reflect accurate compensation. FINRA found that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. (FINRA Case #2008014019401)

**TD Ameritrade Clearing, Inc. (CRD #5633, Bellevue, Nebraska)** 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 trade reporting for transactions executed and reported by way of a give-up agreement. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported numerous last sale reports of transactions in OTC equity securities to the OTC Reporting Facility (OTCRF) it was not required to report. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting for transactions executed and reported by way of a give-up agreement. (FINRA Case #2008014169501)



**Tradelink Securities, LLC (CRD #131341, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000 and required to revise its written supervisory procedures regarding OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its ROEs to OATS over numerous business days. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. **(FINRA Case #2008013162101)**

**Tullett Prebon Financial Services LLC (CRD #28196, Jersey City, New Jersey)** 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 transmit ROEs to OATS on numerous business days. The findings stated that the firm failed to enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations and NASD or FINRA rules concerning OATS, in that the firm failed to conduct reviews provided for in its supervisory procedures to ensure that all ROEs were submitted to OATS. The findings also stated that the firm failed to report transactions in Transaction Reporting and Compliance Engine™ (TRACE™)-eligible transactions to TRACE it was required to report. The findings also included that the firm failed to accept or decline trades in the FINRA/NASDAQ Trade Reporting Facility within 20 minutes after execution. **(FINRA Case #2008014337401)**

## Individuals Barred or Suspended

**Guadalupe Rafael Alba (CRD #720202, Registered Principal, West Allis, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Alba'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, Alba 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 July 6, 2010, through January 5, 2011. **(FINRA Case #2008015306401)**

**Heidi Jo Baldridge (CRD #5381450, Registered Representative, Broken Arrow, Oklahoma)** 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, Baldridge consented to the described sanction and to the entry of findings that she converted a customer check for \$1,340. The findings stated that an affiliated insurance company of her member firm began an audit of her insurance files after receiving a customer complaint. The findings also stated that the customer gave Baldridge the check as a payment for a premium for a new fire insurance policy and that Baldridge admitted to auditors that she deposited the check into her personal checking account and used the money for her mortgage payment. The findings also

included that Baldridge repaid the insurance company \$1,340 on the day of the audit. (FINRA Case #2009021005001)

**Michael Wayne Beardsley (CRD #2546470, Registered Principal, Oakland, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, jointly and severally, and suspended from association with any FINRA member in any principal capacity for 15 business days. Without admitting or denying the findings, Beardsley consented to the described sanctions and to the entry of findings that he allowed his member firm to conduct a securities business while failing to maintain required minimum net capital. The findings stated that Beardsley's firm received a Notice of Levy from the State of California, and he failed to notify any other firm personnel, including the firm's offsite FINOP, about the levy; the levy caused the firm to fall below its minimum required net capital.

The suspension was in effect from July 19, 2010, through August 6, 2010. (FINRA Case #2009017653801)

**Jarem Barry Bingham (CRD #4361331, Registered Representative, Tucson, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. The fine must be paid either immediately upon Bingham'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, Bingham consented to the described sanctions and to the entry of findings that he gave a member firm customer \$4,421 to compensate her for tax consequences incurred as a result of his recommendation that the customer liquidate a variable annuity and purchase mutual funds with the proceeds. The findings stated that Bingham acted without his firm's knowledge or authorization when sharing in the customer's loss, and his firm's procedures prohibited representatives from paying or offering to pay restitution to a customer. The findings also stated that Bingham loaned customers approximately \$1,050 because of delays in processing their withdrawal requests, which the firm's procedures prohibited.

The suspension was in effect from June 21, 2010, through July 12, 2010. (FINRA Case #2009017621401)

**Richard Michael Bowers (CRD #1263206, Registered Principal, Natick, Massachusetts)** was fined \$5,000, required to requalify in all principal capacities before resuming any principal activities and suspended from association with any FINRA member in any principal capacity for two months. The fine is due and payable when Bowers returns to the securities industry. The sanctions were based on findings that Bowers, as his firm's Chief Compliance Officer, permitted an individual, the agent of the firm's owner, to act as a firm principal without being registered to do so. The findings stated that Bowers failed to ensure the sufficiency of the firm's written supervisory procedures and failed to enforce the firm's requirement to document permission for outside business activities.

The suspension is in effect from June 21, 2010, through August 20, 2010. (FINRA Case #2006003916901)

**Bradley Derek Buchanan (CRD #5521070, Registered Representative, Reno, Nevada)** 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, Buchanan consented to the described sanction and to the entry of findings that he filed a false insurance claim in regard to lithographs he owned that were purportedly stolen and overrepresented their value. The findings stated that Buchanan failed to appear for a FINRA on-the-record interview to provide testimony. **(FINRA Case #2008015279301)**

**Leo Timothy Buggy (CRD #1064915, Registered Principal, Green River, Wyoming)** 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, Buggy consented to the described sanction and to the entry of findings that he misappropriated approximately \$589,000 intended for investment by soliciting customers to withdraw funds from their existing firm variable annuity and/or brokerage accounts and invest the withdrawn amounts in what he represented to be safer, higher-yield investments with Buggy's member firm's affiliate. The findings stated that Buggy not only failed to invest the funds received from the customers in safer, higher-yield products with the affiliate, but failed to invest the funds at all. The findings also stated that Buggy caused the funds to be deposited into an account he controlled and made improper use of the funds. The findings also included that Buggy failed to respond to FINRA requests for information and documents. **(FINRA Case #2008016455801)**

**Stephen Kenneth Burch (CRD #35324, Registered Principal, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Burch consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. **(FINRA Case #2009016254301)**

**Donald Jay Carrig (CRD #2669205, Registered Representative, Irvine, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Carrig consented to the described sanctions and to the entry of findings that he participated in the sale of unregistered shares of a thinly traded penny stock into the public markets on customers' behalf, resulting in proceeds of \$106,320.89 to the customers. The findings stated that Carrig failed to perform adequate due diligence prior to executing these sales, notwithstanding his duty to do so and the "red flags" indicating potential violation of the registration requirements of the Securities Act of 1933. The findings also stated that Carrig failed to undertake adequate efforts to ascertain the information necessary to determine whether the customers' unregistered shares could be sold in compliance with Section 5 of the Securities Act, and Carrig failed to determine how the customers came to obtain the stock or whether there was an applicable exemption to registration.

The suspension was in effect from July 6, 2010, through August 4, 2010. **(FINRA Case #2007008239004)**

**Peter Kai Chang (CRD #3219768, Registered Representative, Danville, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Chang willfully failed to amend his Form U4 to disclose material information. **(FINRA Case #2008015348101)**

**Richard Grant Cody (CRD #2794558, Registered Representative, Boston, Massachusetts)** was fined \$27,500 and suspended from association with any FINRA member in any capacity for one year. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Cody recommended and effected quantitatively and qualitatively unsuitable trades in customer accounts. The findings stated that Cody sent customers misleading and unapproved summary spreadsheets of their account holdings. The findings also stated that Cody failed to timely amend his Form U4 with material information.

This decision has been appealed to the SEC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2005003188901)**

**Donald Vetsel DeBord (CRD #1265544, Registered Representative, Richmond, Virginia)** 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 DeBord'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, DeBord consented to the described sanctions and to the entry of findings that he exercised discretionary power in a customer's account without the customer's prior written authorization and contrary to his member firm's prohibition against discretionary trading in these types of customer accounts.

The suspension was in effect from July 6, 2010, through August 5, 2010. **(FINRA Case #2009019148501)**

**Stephen Denton (CRD #5467009, Registered Representative, Cherry Hill, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Denton consented to the described sanctions and to the entry of findings that he improperly distributed the answer key for a state insurance long-term care continuing education (LTC CE) examination to firm employees and financial advisors outside of the firm.

The suspension is in effect from July 19, 2010, through August 18, 2010. **(FINRA Case #2009021029607)**

**Kimberly Ann Putichdudek Ebling (CRD #1653951, Registered Principal, Orchard Park, New York)** 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 six months. The fine must be paid either immediately upon Ebling'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, Ebling consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on her Form U4.

The suspension is in effect from June 21, 2010, through December 20, 2010. (FINRA Case #2009020252101)

**Michael John Ferraro (CRD #2677694, Registered Principal, Manorville, 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 three months. Without admitting or denying the findings, Ferraro consented to the described sanctions and to the entry of findings that he willfully failed to timely update his Form U4 with material information. The findings stated that Ferraro also failed to timely update his Form U4 with additional material information.

The suspension is in effect from July 19, 2010, through October 18, 2010. (FINRA Case #2008016025801)

**Carola Jean Fuller (CRD #3050545, Registered Representative, Grandview, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Fuller'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, Fuller consented to the described sanctions and to the entry of findings that she failed to timely disclose material information on her Form U4.

The suspension is in effect from July 6, 2010, through January 5, 2011. (FINRA Case #2009018811801)

**Thomas George Fullerton (CRD #1838721, Registered Supervisor, Bakersfield, 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, Fullerton consented to the described sanction and to the entry of findings that he intentionally or recklessly excessively traded customers' accounts and recommended the transactions without having reasonable belief that such transactions were suitable in view of the size and frequency of the transactions, the nature of the accounts, and the customers' financial situation, investment objectives and needs. The findings stated that each of the customers was retired and elderly, and the accounts under Fullerton's control represented a substantial percentage of the customers' life savings and net worth, and each customer relied upon the account for income. The findings also stated that Fullerton exercised discretionary power in each customer account without the customers' prior written authorization and without obtaining his member firm's written acceptance of the account as discretionary. (FINRA Cases # 2007011920701/2009018009501)

**Esther Esparza Garcia (CRD #4579816, Registered Representative, Las Cruces, New Mexico)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Garcia converted customers' property casualty insurance premium payments totaling \$2,531.91 to her own benefit and use by depositing the funds into a checking account that she controlled instead of remitting the funds to the insurance company. The findings stated that Garcia failed to appear for FINRA on-the-record interviews. (FINRA Case #2008014615401)

**Robert Norman Gest Jr. (CRD #1314166, Registered Supervisor, Lighthouse Point, Florida)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for 18 months. In light of Gest's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Gest consented to the described sanctions and to the entry of findings that he recommended risky and illiquid CMO positions to his customers, and intentionally and/or recklessly made misrepresentations of material facts and omitted to disclose material facts to customers in connection with their CMO investments. The findings stated that Gest failed to provide his customers with material information concerning the bonds as contained in prospectuses, prospectus supplements or any offering circulars relating to the particular CMO tranches purchased that document various applicable risk factors that an investor should consider before investing. The findings also stated that Gest recommended CMO positions to customers without investigating and understanding the products and without reasonable grounds to believe that CMO investments were suitable, as he lacked an understanding of the material characteristics of, and risks associated with, the CMOs offered. The findings also included that Gest lacked reasonable grounds to believe the CMO program and CMO investments were suitable for his customers based upon their disclosed investment experience, investment objectives, financial situation and needs, and he did not have reasonable grounds to believe that the use of margin was suitable for customer CMO purchases. FINRA found that Gest exercised discretionary authority in customer accounts without his customers' prior written authorization and his member firm's prior written acceptance of the accounts as discretionary. FINRA also found that Gest willfully failed to timely update his Form U4 with material facts.

The suspension is in effect from July 6, 2010, through January 5, 2012. **(FINRA Case #2007011348301)**

**Ryan Matthew Glaspell (CRD #2842996, Registered Principal, Alliance, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 21 months. The fine must be paid either immediately upon Glaspell'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, Glaspell consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4 and failed to completely respond to FINRA requests for information and documents.

The suspension is in effect from July 6, 2010, through April 5, 2012. **(FINRA Case #2008015576601)**

**Patrick J. Grywalski (CRD #5114720, Registered Representative, Louisville, Kentucky)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. Without admitting or denying the allegations, Grywalski consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U4. The findings stated that Grywalski failed to respond to FINRA requests for information.

The suspension is in effect from June 21, 2010, through June 20, 2011. **(FINRA Case #2009017153701)**



**John Edward Herbert (CRD #2727923, Registered Principal, Lyndon, Washington)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Herbert failed to respond to FINRA requests for information. (FINRA Case #2008013575001)

**Afiz Sadrudin Hudani (CRD #2685460, Registered Representative, Colleyville, Texas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hudani received checks totaling \$8,000 from customers for payment of insurance premiums and deposited the checks into his personal checking account for his own benefit. The findings stated that Hudani misapplied \$2,277.50 in dividend payments on a customer's insurance policy and used the funds to pay the insurance premiums that other individuals owed, even though the customer did not authorize the withdrawals. The findings also stated that Hudani made unauthorized dividend or loan withdrawals from customers' insurance policies, totaling approximately \$20,590, for the benefit of third parties; made unauthorized dividend or loan withdrawals from customers' insurance policies, totaling approximately \$10,000, for the benefit of his customers or their family members; and converted customers' term life insurance into whole life policies without the customers' consent. The findings also included that Hudani failed to appear for a FINRA on-the-record interview. (FINRA Case #2008012361801)

**Stephen Alan Jaffe (CRD #1340770, Registered Representative, North Miami 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 one month. The fine must be paid either immediately upon Jaffe'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, Jaffe consented to the described sanctions and to the entry of findings that he was the broker of record for a customer's non-discretionary account at his member firm and exercised discretion in the customer's account in multiple transactions without written authorization. The findings stated that Jaffe completed annual certifications for his firm, in which he attested that he had not exercised full or partial trading authorization over any client account without having obtained the required approvals.

The suspension was in effect from July 6, 2010, through August 5, 2010. (FINRA Case #2009018230901)

**Mark Andrew Jamgochian (CRD #5133559, Registered Representative, West Springfield, 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. The fine must be paid either immediately upon Jamgochian'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, Jamgochian consented to the described sanctions and to the entry of findings that he cut-and-pasted customers' signatures on account-related documents without the customers' authorization or consent. The findings stated that the documents were all variable annuity applications for transactions that the customers previously authorized.

The suspension is in effect from July 6, 2010, through October 5, 2010. **(FINRA Case #2009018304601)**

**Quinton Jeffries-Hernandez (CRD #5307204, Registered Representative, Brooklyn, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Jeffries-Hernandez caused referral bonuses to be credited to customer accounts for which the customers were not entitled. The findings stated that Jeffries-Hernandez issued ATM cards for the accounts and used the ATM cards to withdraw the funds for his personal use, without the customers' or the bank's knowledge or authorization. The findings stated that Jeffries-Hernandez failed to respond to FINRA requests for information and failed to appear for an on-the-record interview. **(FINRA Case #2008015002801)**

**Kenneth Francis Jewell (CRD #2128735, Registered Representative, Dunedin, 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 two months. The fine must be paid either immediately upon Jewell'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, Jewell consented to the described sanctions and to the entry of findings that, while employed at a member firm, he was also employed by, and accepted compensation from, an outside business for providing consulting support and investment platform coordination for participants in "professional employer organization" plans. The findings stated that Jewell's business activities were outside the scope of his relationship with his firm, and he did not provide prompt written notice to his firm of his activities. The findings also stated that Jewell inaccurately certified on an annual firm compliance questionnaire that he was not involved in any outside business activities.

The suspension is in effect from July 6, 2010, through September 5, 2010. **(FINRA Case #2009017425001)**

**Samuel Kenneth Johnson (CRD #260259, Registered Representative, St. Cloud, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Johnson'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, Johnson consented to the described sanctions and to the entry of findings that he entered into a settlement agreement with a customer, wherein he promised to pay the customer \$4,700 to correct a trading error. The findings stated that Johnson entered into the settlement agreement without his member firm's authorization.

The suspension was in effect from June 21, 2010, through July 2, 2010. **(FINRA Case #2009017292301)**

**Kenneth Ray Johse Sr. (CRD #2826677, Registered Representative, Wharton, 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 six months. The fine must be paid either immediately upon Johse'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, Johse consented to the described sanctions and to the entry of findings that he willfully failed to amend his Form U4 to disclose a material fact.

The suspension is in effect from June 21, 2010, through December 20, 2010. **(FINRA Case #2009018338201)**

**Danica Danialah King (CRD #4505156, Registered Representative, Richmond, Virginia)** 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, King consented to the described sanction and to the entry of findings that she came into possession of counterfeit credit cards containing stolen consumers' credit card information that had been electronically captured from credit cards the consumers used while dining. The findings stated that King used the phony credit cards to purchase gift cards and electronic items and then sold the cards and electronic items on an eBay account she controlled and operated, thereby engaging in money laundering. The findings also stated that King failed to respond to FINRA requests for information. **(FINRA Case #2009017881901)**

**Rebecca Ann Kortman (CRD #4168368, Registered Representative, Chatham, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$12,500 and suspended from association with any FINRA member in any capacity for seven months. The fine must be paid either immediately upon Kortman'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, Kortman consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on her Form U4. The findings stated that Kortman engaged in outside business activities without prompt written notice to her member firm.

The suspension is in effect from June 21, 2010, through January 20, 2011. **(FINRA Case #2009016790401)**

**Maria DeJesus Lastra (CRD #2582532, Registered Principal, San Diego, California)** was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine is due and payable if and when Lastra re-enters the securities industry. The sanctions were based on findings that Lastra failed to respond to FINRA requests for information.

The suspension is in effect from June 7, 2010, through June 6, 2012. **(FINRA Case #2008014533501)**

**Jeffrey Scott Levine (CRD #5448799, Registered Representative, Jacksonville Beach, 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, Levine consented to the described sanction and to the entry of findings that he withdrew a total of \$6,000 from customer accounts and misappropriated the funds for his own use. The findings stated that the customers did not authorize Levine to make the withdrawals. The findings also stated that Levine failed to respond to FINRA requests for information. **(FINRA Case #2009019348201)**

**Jason R. Locke (CRD #3277654, Registered Representative, Naperville, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. Without admitting or denying the findings, Locke consented to the described sanctions and to the entry of findings he created an answer key by saving a copy of his answers to a state insurance LTC CE examination and sent the answer key to another firm employee.

The suspension is in effect from July 6, 2010, through September 3, 2010. **(FINRA Case #2009021029606)**

**Anthony F. Lodati (CRD #4877082, Registered Principal, Huntington, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000, suspended from association with any FINRA member in any principal capacity for two months and agreed to complete 16 hours of AML continuing education training within 120 days of acceptance of the AWC. Lodati also agreed to fully and promptly cooperate with FINRA in any and all investigations concerning conduct at and/or relating to a member firm. Without admitting or denying the findings, Lodati consented to the described sanctions and to the entry of findings that he and another individual at his member firm failed to establish and maintain a supervisory system at the firm to address its responsibilities for determining whether customer securities were properly registered or exempt from registration. The findings stated that while registered through and acting on his firm's behalf, he sold shares of a security to public investors using a private placement memorandum that omitted a convicted felon's association with the issuer, which is a material fact. The findings also stated that Lodati and the firm's Chief Compliance Officer failed to clearly assign each registered person to an appropriately registered representative and/or principal responsible for supervising that person's activities and designate principals with actual authority to carry out the supervisory responsibilities over the firm's business.

The suspension is in effect from July 6, 2010, through September 5, 2010. **(FINRA Case #2008011678302)**

**Christopher John Looney (CRD #1836267, Registered Principal, Dix Hills, New York)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the allegations, Looney consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing notice, in writing or otherwise, of such activities to his member firm.

The suspension was in effect from July 6, 2010, through July 19, 2010. **(FINRA Case #2008013531001)**

**Nicholas Alexander Loskocinski (CRD #4519721, Registered Representative, Brooklyn, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Loskocinski failed to respond to FINRA requests for information. **(FINRA Case #2009016512401)**

**Jose Luis Luna (CRD #4566784, Registered Representative, Aventura, 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, Luna consented to the described sanction and to the entry of findings that he failed to provide further investigative testimony to FINRA. **(FINRA Case #2010022784701)**

**Susan Magourik (CRD #4207160, Associated Person, Macon, Georgia)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Magourik caused checks totaling \$65,000 to be drawn on a customer's account without the customer's permission or authority, and used them for her own benefit. The findings stated that Magourik forged the customer's signature on Letters of Authorization to obtain the \$65,000 that she converted from the customer's account. **(FINRA Case #2008014644201)**

**Frank Gerallimo Manzano (CRD #2897737, Registered Representative, Weehawken, New Jersey)** submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Manzano'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, Manzano consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4. The findings stated that Manzano engaged in outside business activities without providing prompt written notice to his member firm and contrary to his firm's written supervisory procedures requiring written approval or disapproval from a supervisory principal of any outside business activity requests.

The suspension is in effect from July 6, 2010, through November 5, 2010. **(FINRA Case #2009016956501)**

**Alan David Marcus (CRD #319578, Registered Representative, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 45 days. The fine must be paid either immediately upon Marcus' 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, Marcus consented to the described sanctions and to the entry of findings that he sold unregistered shares of a thinly traded penny stock into the public markets on customers' behalf, resulting in proceeds of almost \$18,000 to the customers. The findings stated that Marcus acted as the registered representative for all of these sales and failed to perform adequate due diligence prior to executing these sales, notwithstanding his duty to do so and the red flags

indicating potential violations of registration requirements of the Securities Act of 1933. The findings also stated that Marcus failed to undertake adequate efforts to ascertain the information necessary to determine whether the customers' unregistered shares could be sold in compliance with Section 5 of the Securities Act, and failed to determine how the customers came to obtain the stock or whether there was an applicable exemption to registration.

The suspension was in effect from June 21, 2010, through August 4, 2010. **(FINRA Case #2007008239002)**

**Robert Michael Marcus (CRD #319646, Registered Representative, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Marcus' 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, Marcus consented to the described sanctions and to the entry of findings that he participated in the sale of unregistered shares of a thinly traded penny stock into the public markets on customers' behalf, which resulted in proceeds of almost \$18,000 to the customers. The findings stated that Marcus was not the designated registered representative on customer accounts but he assumed certain responsibilities for the accounts, including determining whether securities sold from the accounts were freely tradable. The findings also stated that Marcus failed to perform adequate due diligence prior to executing these sales, notwithstanding his duty to do so and the red flags indicating potential violation of registration requirements of the Securities Act of 1933. The findings also included that Marcus failed to undertake adequate efforts to ascertain the information necessary to determine whether the customers' unregistered shares could be sold in compliance with Section 5 of the Securities Act, and failed to determine how the customers came to obtain the stock or whether there was an applicable exemption to registration.

The suspension is in effect from June 21, 2010, through June 20, 2011. **(FINRA Case #2007008239003)**

**Marissa Miranda McDermott (CRD 2122152, Registered Supervisor, Pembroke Pines, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon McDermott'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, McDermott consented to the described sanctions and to the entry of findings that she falsified customers' signatures on her member firm's internal documents, which are required to be completed when a foreign customer uses a U.S. mailing address, without the customers' knowledge or authorization.

The suspension was in effect from June 21, 2010, through July 20, 2010. **(FINRA Case #2009017349601)**



**Phillip E. Miles (CRD #4304543, Registered Representative, Alpharetta, Georgia)** 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, Miles consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information regarding allegations of unauthorized trading and false account values. **(FINRA Case #2009016742401)**

**Chapin Miller (CRD #4673618, Registered Representative, Longview, 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 Miller'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, Miller consented to the described sanctions and to the entry of findings that he falsified customers' signatures on account-related documents without their authorization, and submitted them to his member firm, thereby causing his firm's books and records to be inaccurate.

The suspension is in effect from July 6, 2010, through October 5, 2010. **(FINRA Case #2009016664401)**

**David Alan Murrell (CRD #4565398, Registered Representative, McLean, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Murrell'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, Murrell consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm. The findings stated that Murrell formed a partnership with a customer of a bank affiliated with his member firm to purchase, develop and sell private and commercial properties and make commercial loans secured by mortgages on realty, but failed to inform his firm. The findings also stated that Murrell failed to disclose his outside business activities to his firm on an annual attestation form he completed on the same day he received in compensation from the partnership.

The suspension is in effect from June 21, 2010, through December 20, 2010. **(FINRA Case #2008015274701)**

**Erin Alyse Outten (CRD #5486108, Associated Person, Winchester, Virginia)** 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, Outten consented to the described sanction and to the entry of findings that she embezzled approximately \$39,560 from her employer, an Office of Supervisory Jurisdiction of a member firm. The findings stated that Outten ordered personal items and billed them to her employer's operating account. The findings also stated that

Outten made unauthorized wire transfers to herself from the operating account. The findings also included that Outten failed to respond to FINRA requests for information. (FINRA Case #2009018117901)

**John William Pena (CRD #2780628, Registered Principal, Margate, Florida)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Pena consented to the described sanction and to the entry of findings that he borrowed \$20,000 from customers contrary to his member firm's written procedures forbidding registered representatives from borrowing funds from firm customers except in cases where the customer was an immediate family member; neither customer was a member of Pena's immediate or extended family. The findings stated that Pena failed to notify his firm of the loan, obtain the firm's approval prior to accepting the loan or repay the loan. The findings also stated that Pena failed to timely and completely respond to FINRA requests for information and documents. (FINRA Case #2007010533701)

**Erik Carl Peterson (CRD #3092724, Registered Principal, Lolo, Montana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Peterson consented to the described sanctions and to the entry of findings that he altered and falsified firm records pertaining to customer accounts and made changes to documents with white-out fluid after the customer had signed the forms. The findings stated that in other instances, clients signed blank transaction-related forms that Peterson later completed. The findings also stated that Peterson affixed a customer's signature to Change of Dealer Forms with the customer's permission.

The suspension is in effect from July 19, 2010, through September 18, 2010. (FINRA Case #2008014435301)

**Jason Thomas Plunkett (CRD #4859990, Registered Representative, Nashville, Tennessee)** 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, Plunkett consented to the described sanctions and to the entry of findings that Plunkett requested and/or received different answer keys for a state insurance LTC CE examination from firm employees who created them and Plunkett then distributed one of the answer keys to financial advisors outside of the firm.

The suspension was in effect from July 6, 2010, through August 5, 2010. (FINRA Case #2009021029605)

**Dustin E. Polage (CRD #5310751, Registered Representative, Newark, Ohio)** 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, Polage consented to the described sanction and to the entry of findings that, without bank customers' knowledge or authorization, he used their personal bank account information to generate and activate ATM cards linked to their savings accounts and withdrew funds totaling approximately \$36,102 from the accounts. The findings stated that Polage has not returned any of the funds to the bank customers or reimbursed

the bank after it reimbursed the funds to the customers. The findings also stated that Polage failed to respond to FINRA requests for information. **(FINRA Case #2008014784001)**

**Dean Allen Raber (CRD #2214667, Registered Principal, Sarasota, Florida)** was barred from association with any FINRA member in any capacity and ordered to pay \$14,000, plus interest, in restitution. The sanction was based on findings that Raber misappropriated \$44,000 from an individual and \$10,000 from a customer, both of whom had entrusted him with their funds for investment purposes. The findings stated that rather than investing the funds as he represented, Raber used the funds for his own use and benefit. The findings also stated that Raber's member firm repaid \$30,000 of the individual's funds and reimbursed the customer in full. The findings also included that Raber failed to respond to FINRA requests for information. **(FINRA Case #2008016254501)**

**George Ernest Reilly (CRD #1523041, Registered Principal, Fox Lake, Illinois)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Reilly failed to establish and maintain a supervisory system with written supervisory procedures reasonably designed to prevent excessive markups in CMO bond transactions, and failed to exercise his supervisory responsibilities to ensure that the firm's CMO trader and other firm representatives complied with NASD Rules 2110 and 2440. The findings stated that Reilly made notations of his reviews of CMO trades for markups on a daily trade blotter but did not conduct reviews to ensure that the markups were fair, reasonable and consistent with market prices. The findings also stated that Reilly had the authority to reverse or cancel CMO trades for unreasonable or excessive markups but did not do so, despite the fact that under his supervision, markups for CMO transactions were excessive. **(FINRA Case #2007007329501)**

**Don Michael Roman (CRD #1713951, Registered Representative, Stone Mountain, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for one month. In light of Roman's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Roman consented to the described sanction and to the entry of findings that he engaged in private securities transactions outside the course and scope of his employment with a member firm without providing his firm with the requisite notice. The findings stated that Roman facilitated investments by assisting in the transfer of funds to companies to fund the purchase of securities, forwarded applicable private placement memoranda and subscription agreement forms, or communicated with the companies on behalf of individuals.

The suspension was in effect from July 6, 2010, through August 5, 2010. **(FINRA Case #2006006777802)**

**Charles Wyman Shirey (CRD #1223761, Registered Principal, Greenville, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Shirey'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, Shirey consented to the described sanctions and to the entry of findings that he impersonated customers to expedite the transfer of their accounts from his former broker-dealer to his new broker-dealer. The findings stated that Shirey placed calls to his former broker-dealer, identified himself as the customer and proceeded to impersonate the customers. The findings also stated that although the customers had authorized the transfer of their accounts, they did not authorize the impersonations.

The suspension is in effect from July 6, 2010, through August 16, 2010. **(FINRA Case #2008015696301)**

**Michael Frederick Siegel (CRD #1001893, Registered Representative, Beverly Hills, California)** was fined a total of \$30,000 and suspended from association with any FINRA member in any capacity for two consecutive six-month terms. The United States Court of Appeals for the DC Circuit imposed the sanctions following appeal of an SEC decision affirming a NAC decision. The findings stated that Siegel recommended and effected sales of securities to customers without having reasonable grounds for believing that the recommendations and resultant sales were suitable for such customers, and participated in private securities transactions without prior written notice to, and approval from, his member firm.

The suspensions are in effect from June 21, 2010, through June 20, 2011. **(FINRA Case #C05020055)**

**Laryssa Danielle Summers (CRD #4601025, Registered Representative, Muskegon, Michigan)** was suspended from association with any FINRA member in any capacity for six months. The sanction was based on findings that Summers failed to timely respond to a FINRA request for information.

The suspension is in effect from July 6, 2010, through January 5, 2011. **(FINRA Case #2008013206002)**

**Joshua T. Thatcher (CRD #5586489, Registered Principal, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Thatcher'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, Thatcher consented to the described sanctions and to the entry of findings that he willfully failed to timely amend his Form U4 to disclose material information, and did not amend his Form U4 to reflect the material information until after the firm became aware of the information and completed an internal investigation. The findings stated that Thatcher completed his member firm's annual individual compliance review form, where one of the questions asked if he had complied with the responsibility for the prompt preparation and submission of Form U4 amendment as FINRA required; he checked the "YES" box.

The suspension is in effect from June 21, 2010, through March 20, 2011. **(FINRA Case #2009018404901)**

**Mathew Valente (CRD #5442789, Registered Representative, East Fallowfield, 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 10 business days. Without admitting or denying the findings, Valente consented to the described sanctions and to the entry of findings that he requested that another wholesaler send him an answer key for a state insurance LTC CE examination, and Valente improperly distributed the answer key to other firm employees.

The suspension was in effect from July 6, 2010, through July 19, 2010. **(FINRA Case #2009021029604)**

**Daniel Lee Widmer (CRD #1304553, Registered Representative, Minocqua, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Widmer'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, Widmer consented to the described sanctions and to the entry of findings that he altered firm variable annuity subaccount transfer selection forms by whiting-out dates on signature pages, handwriting a new date, and then attaching the pages that contained the altered dates. The findings stated that the firm discovered blank documents containing customer signatures in Widmer's office files. The findings also stated that although the customers requested the transactions that were initiated by the altered forms, Widmer's member firm strictly prohibited altering documents in any manner.

The suspension is in effect from July 6, 2010, through October 5, 2010. **(FINRA Case #2009016698302)**

**Marshall Adine Wright (CRD #2516024, Registered Representative, Barto, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$15,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Wright'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, Wright consented to the described sanctions and to the entry of findings that she engaged in a private securities transaction without prior written notice to, or prior written approval from, her member firm. The findings stated that the customer agreed to provide start-up capital for a corporation Wright founded, and the customer loaned the corporation \$150,000 and received a promissory note evidencing the loan. The findings also stated that Wright borrowed \$30,000 from a firm customer contrary to her firm's procedures, which specifically prohibited registered representatives from borrowing money from customers; Wright did not inform the firm of this loan, which was repaid. The findings also included that Wright engaged in an outside business activity without providing prompt written notice to her firm; Wright failed to disclose her position as president of the corporation and her activities with that company.

The suspension is in effect from July 6, 2010, through January 5, 2011. **(FINRA Case #2009017320301)**

### Decisions 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 June 30, 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 months.

**Carl Max Birkelbach (CRD #1177843, Registered Principal, Chicago, Illinois) and William James Murphy (CRD #1437087, Registered Principal, Midlothian, Illinois).** Birkelbach was fined \$25,000, suspended from association with any FINRA member as a general securities principal or options principal for six months, and required to re-qualify before serving in either of those principal capacities. Murphy was fined \$591,933.67 as disgorgement of commissions and barred from association with any FINRA member in any capacity. The sanctions were based on findings that Murphy exercised discretion in clients' accounts without the customers' or his member firm's prior authorization. The findings stated that Murphy engaged in churning and excessive and unsuitable trading in customers' accounts in light of their financial situation and investment objectives. The findings also stated that Murphy effected uncovered trades in a customer's account beyond the levels the customer authorized or Murphy's firm approved. The findings also included that Murphy created and distributed inaccurate, misleading and unbalanced written communications, including reports and sales literature, to a customer. FINRA found that Birkelbach failed to supervise Murphy's handling of customer accounts at his member firm, and failed to properly review and prevent misleading documents from being sent out from his firm.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeals. **(FINRA Case #2005003610701)**

**Howard Braff (CRD #1161062, Registered Principal, Holtsville, New York)** was fined \$15,000 and suspended from association with any FINRA member in any capacity for one year. The sanctions were based on findings that Braff maintained brokerage accounts at member firms and had not notified the firms with which he was employed, in writing, of these accounts. The findings stated that Braff failed to notify the firms where he maintained accounts that he was associated with FINRA member firms. The findings also stated that Braff filed false and misleading documents with his firms, representing that he did not have any outside brokerage accounts.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2007011937001)**

**Ryan August Leopold (CRD #4891295, Registered Representative, Lafayette, Louisiana)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Leopold created sets of false receipts and verifications letters for expenses incurred while making presentations and giving seminars regarding variable annuities, and submitted the documents to his member firm so that the firm would



deduct fewer taxes from his gross income. The findings stated that Leopold's firm did not reimburse him for expenses over \$50,000 but paid him an equivalent amount of his gross commissions without deducting income taxes, thereby reducing Leopold's taxable income. The findings also stated that Leopold fabricated other invoices and verification letters for meetings he claimed occurred, but for which he did not maintain original receipts and submitted them to his firm.

This decision has been appealed to the NAC, and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #2007011489301)**

**Dirk Allen Taylor (CRD #1008197, Registered Supervisor, San Antonio, Texas)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine is due and payable when Taylor returns to the securities industry. The sanctions were based on findings that Taylor failed to deliver preliminary prospectuses to customers of his member firm for whom he had received indications of interest. The findings stated that Taylor submitted syndicate worksheets to his member firm, falsely representing that he had delivered the prospectuses to customers who purchased shares of a syndicate offering when, in fact, he had not delivered them. The findings also stated that by submitting the false syndicate worksheets, Taylor made misrepresentations to his firm and caused the firm's books and records to be inaccurate.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2007009446801)**

**Robert Durant Tucker (CRD #1725356, Registered Representative, New York, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Tucker willfully failed to disclose material information on his Forms U4 and also failed unintentionally to disclose material information on his Forms U4.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #2007009981201)**

## Complaints Filed

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

**Christopher Anthony Lee (CRD #2784247, Registered Representative, Dublin, California)** was named as a respondent in a FINRA complaint alleging that he altered pre-signed variable annuity withdrawal forms by changing payment and mailing instructions so that the annuity companies mailed checks from customer accounts to Lee at his home address. The complaint alleges that Lee deposited the checks in his personal bank account and used the funds for his own purposes, thereby misappropriating

approximately \$166,000 in customer funds. The complaint also alleges that, in some instances, Lee forged customers' signatures on withdrawal forms without the customers' knowledge or authorization. **(FINRA Case #2009017726101)**

**Brookstone Securities, Inc. (CRD # 13366, Lakeland, Florida), Richard Joseph Buswell (CRD #4770105, Registered Representative, Lafayette, Louisiana) and Herbert Steven Fouke (CRD #5523938, Registered Representative, Lafayette, Louisiana)** were named as respondents in a FINRA complaint alleging that the firm, acting through Buswell and Fouke, made misrepresentations and/or omissions of material fact in connection with the sale of unsecured bridge notes and warrants. The complaint alleges that Buswell and Fouke, acting on the firm's behalf, told purchasers of the bridge notes that they were guaranteed without any reasonable basis given the description of the placement agent's limited role in the Private Placement Memorandum (PPM) and disclosed no risks regarding the financing or financial health of the placement agent or the issuer of the bridge notes and warrants. The complaint also alleges that Buswell and Fouke provided unwarranted price predictions to customers regarding the future price of common stock for which warrants would be exchangeable. The complaint further alleges that Buswell and Fouke, acting on the firm's behalf, guaranteed the payment at maturity of promissory notes although the PPM made clear that the placement agent had no commitment to provide financing for the private placement or a later public offering. In addition, the complaint alleges that Buswell and Fouke, acting on the firm's behalf, recklessly or knowingly failed to disclose the risk that the financing would not occur and recklessly or knowingly failed to disclose the other risks outlined in the PPM. The complaint alleges that Buswell and Fouke, acting on the firm's behalf, guaranteed to customers that they would receive back their principal investments plus returns, failed to inform investors of any risks associated with the investments and did not discuss the risks outlined in the PPM that could result in investors losing their entire investment. The complaint also alleges that the firm, acting through Buswell, made misrepresentations and/or omissions of material fact in connection with the sale of the private placement of firm units consisting of Class B common stock and warrants to purchase Class A common stock to customers; the PPM for the firm self-offering stated that the investment was speculative, involving a high degree of risk and was only suitable for persons who could risk losing their entire investment, and the PPM also stated that the investment was illiquid, contrary to Buswell's representations. The complaint further alleges that Buswell represented to customers that he would invest their funds in another private placement, and in direct contradiction, invested the funds in the firm's private placement. In addition, the complaint alleges that the firm, acting through Buswell and Fouke, recommended and effected the sale of securities without having a reasonable basis to believe that the transactions were suitable given the customers' financial circumstances and conditions; Buswell recommended a trading strategy that relied upon frequent trading, use of margin and concentration of the accounts in a small number of financial stocks. The complaint alleges that Buswell exercised discretion in customers' accounts without the customers' prior written authorization or the firm's acceptance of the accounts as discretionary. The complaint also alleges that the firm, acting through its chief executive officer (CEO) and its president, failed to reasonably supervise Buswell, and failed to follow up on red flags

that should have alerted them to the need to investigate Buswell's sales practices and determine whether trading restrictions, heightened supervision or discipline were warranted. The complaint further alleges that the firm, acting through its CEO, president and chief compliance officer, failed to establish, maintain and enforce supervisory procedures reasonably designed to prevent violations of NASD Rule 2310 regarding suitability; the firm's procedures were also inadequate to prevent and detect unsuitable recommendations resulting from excessive trading, excessive use of margin and over-concentration. The complaint alleges that the firm's new account application process was flawed so that a reviewing principal was unable to obtain an accurate picture of customers' financial status, investment objectives and investment history when reviewing a transaction for suitability. The complaint also alleges that the firm's procedures failed to identify specific reports that its compliance department was to review and provided no guidance on the actions or analysis that should occur in response to the reports. **(FINRA Case #2009017275301)**

**Hansel Clarence Cua Lee (CRD #3259991, Registered Representative, Burbank, California)** was named as a respondent in a FINRA complaint alleging that he misused and appropriated customer funds by selling securities in the customer's brokerage account and then taking the proceeds of those sales and depositing them in a checking account he opened in the customer's name without the customer's consent or knowledge. The complaint alleges that Lee then requested a \$500,000 check be drawn on the account, payable to a company under his control and ownership; when the check could not be processed, Lee requested other checks be drawn on the account payable to another company under Lee's ownership and control, and deposited them into his checking account, thereby misappropriating customer funds for his own purposes. The complaint also alleges that Lee misused approximately \$500,000 in funds from the customer by improperly selling treasuries and municipal bonds in the customer's account, without the customer's knowledge and permission. The complaint further alleges that when the customer confronted Lee about the sales of the treasuries and bonds, Lee told him he was mistaken and had not read the account statement correctly. In addition, the complaint alleges that Lee failed to respond to FINRA requests for information and to provide on-the-record testimony. **(FINRA Case #2008015280701)**

**Brian Joseph Sekelsky (CRD #2869906, Registered Representative, Louisville, Kentucky)** was named as a respondent in a FINRA complaint alleging that he failed to timely execute customers' instructions to sell and did not contact the customers until after the assets had been sold, causing the customers to incur a loss of \$23,747.64. The complaint alleges that Sekelsky purchased shares of a company's stock in a customer's IRA account, and sold the position without the customer's prior knowledge, authorization or consent. The complaint also alleges that Sekelsky failed to appear for a FINRA on-the-record interview. **(FINRA Case #2009017623801)**

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

Stonehurst Securities, Inc.  
Folsom, California  
(June 1, 2010)

**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.)

Cullum & Burks Securities, Inc.  
Dallas, Texas  
(June 4, 2010)

Emerald Investments, Inc.  
New York, New York  
(June 4, 2010)

First Legacy Securities  
Helena, Alabama  
(June 4, 2010)

Longview Financial Group, Inc.  
New York, New York  
(June 4, 2010)

Macmar Investment Corp.  
Akron, Ohio  
(June 4, 2010)

McGinn, Smith & Co., Inc.  
Albany, New York  
(June 4, 2010)

Newpoint Securities, LLC  
Beverly Hills, California  
(June 4, 2010)

OCNAYR  
Fort Lauderdale, Florida  
(June 4, 2010)

Segrave, Turlough William  
New York, New York  
(June 4, 2010)

**Firm Suspended for Failing to Pay Arbitration Awards 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.)

ITradeDirect.com Corporation  
Boca Raton, Florida  
(June 29, 2010)

**Individuals Barred Pursuant to FINRA Rule 9552(h) (If the bar has been vacated, the date follows the bar date.)**

Scott Browning  
Naples, Florida  
(June 7, 2010)

Mark Carmen Casolo  
Voorheesville, New York  
(June 28, 2010)

Glenda Ann Dixon  
Castro Valley, California  
(June 28, 2010)

Michael Feldman  
Brooklyn, New York  
(June 28, 2010)

Daniel Guadarrama  
Northwood, Ohio  
(June 21, 2010)

Louis Konstantinos Katogyritis  
Fort Lauderdale, Florida  
(June 28, 2010)

Joe Hon Chuen Lai  
San Jose, California  
(June 2, 2010)

Mark Christopher Madison  
Little Rock, Arkansas  
(June 28, 2010)

Moctar Ndiaye aka Justin Ndiaye  
Tampa, Florida  
(June 24, 2010)

**Robert Alan Roxas**  
Minnetonka, Minnesota  
(June 24, 2010)

**Nathan Albert Spells**  
Orlando, Florida  
(June 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.)

**Reginald Charles Bennett**  
Huntington Beach, California  
(June 11, 2010)

**Stuart Gregory Burchard**  
San Francisco, California  
(June 17, 2010)

**Timothy Richard Clancy**  
Boca Raton, Florida  
(June 7, 2010)

**Donald Gregory Diss**  
Fort Wayne, Indiana  
(June 7, 2010)

**Luis Roberto Ache Fragali**  
Sao Paulo, Brazil  
(June 18, 2010)

**Donald Lawrence Huber**  
Fort Thomas, Kentucky  
(June 7, 2010)

**Terry Gene Hummer**  
Topeka, Kansas  
(June 21, 2010)

**Jason Neil Kraskiewicz**  
Fort Lauderdale, Florida  
(June 25, 2010)

**David Lee Maynard**  
Bakersfield, California  
(June 1, 2010)

**Alan Vincent Michals**  
Las Vegas, Nevada  
(June 1, 2010)

**Sandra Lee Pope**  
Ridgefield, Connecticut  
June 29, 2010

**James A. Salamone**  
Staten Island, New York  
(June 21, 2010)

**Kip Haruki Tani**  
Windsor, Colorado  
(June 4, 2010)

**Steven R. Vazquez**  
Holbrook, New York  
(June 14, 2010)

**Tyrone Ashley Williams**  
Philadelphia, Pennsylvania  
(June 25, 2010)

**Michael Scott Wittenberg**  
Huntington, New York  
(June 7, 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.)

**Djamila Arapovic**  
Corona, California  
(June 29, 2010)

**Frank Julian Bluestein**  
Milford, Michigan  
(June 9, 2010)

**Mark Carmen Casolo**  
Voorheesville, New York  
(June 9, 2010)

**Richard Anthony Darquea**  
Wellington, Florida  
(April 14, 2010 – June 29, 2010)

**David Neil Frand**  
Parkland, Florida  
(June 4, 2010)

**Charles Patrick Hanlon**  
Huntington Beach, California  
(June 29, 2010)

**Thomas George Hicks III**  
Farr West, Utah  
(June 9, 2010)

**Xin Xin Li**  
San Francisco, California  
(June 29, 2010)

**Kevin Lee Mathis**  
San Antonio, Texas  
(June 9, 2010)

**John Lewis McArdle Jr.**  
Austin, Texas  
(June 9, 2010)

**David Norman Moore**  
Columbus, Ohio  
(June 9, 2010)

**James Thomas Patten**  
Bernardsville, New Jersey  
(April 24, 2008 – June 4, 2010)

**Jaime Rodriguez**  
Massapequa Park, New York  
(June 9, 2010)

**William Gregory Slonecker**  
Nashville, Tennessee  
(June 29, 2010)

**William Earl Snooks Jr.**  
Overland Park, Kansas  
(June 29, 2010)

**Gerald Francis Stonehouse**  
Hingham, Massachusetts  
(May 14, 2007 - June 9, 2010)

**Joseph Patrick Tiriolo**  
Cheshire, Connecticut  
(June 4, 2010)

**Jeffery Luke Westerman**  
New Albany, Ohio  
(June 9, 2010)



## **FINRA Fines Phoenix Derivatives Group, Eight Brokers at Five Firms A Total of \$4.3 Million for Improper Communications About Customers' Interdealer Brokerage Rate Negotiations**

### **FINRA's Investigation Is Continuing**

The Financial Industry Regulatory Authority (FINRA) announced that it has imposed fines totaling \$4.3 million against Phoenix Derivatives Group, LLC of New York and eight brokers—three employed at Phoenix and five at four other interdealer brokerage firms—for improper communications about customers' proposed brokerage rate reductions in the wholesale credit default swap (CDS) market.

"These settlements reflect our continued pursuit of conduct that undermines fundamental principles and rules upon which customers and free markets rely for efficient price discovery," said Tom Gira, Executive Vice President of FINRA's Department of Market Regulation. "FINRA's requirements to observe high standards of commercial honor and just and equitable principles of trade are designed to prevent the types of inter-firm communications that occurred in this case, which threaten the proper function of market forces."

Phoenix and its three CDS desk co-heads were sanctioned for attempting to improperly influence other interdealer brokerage firms and their employees regarding brokerage fees and rate reductions. In addition, the firm was sanctioned for failures with related supervision, document production and record retention violations.

Phoenix was fined \$3 million, of which \$900,000 is a joint and several fine apportioned among the three CDS desk co-heads—former Managing Partner Jon Lines and Managing Partners Wesley Wang and Marcos Brodsky. FINRA suspended all three from working in the securities industry—Lines for three months, Wang for two months and Brodsky for one month.

In addition to Phoenix and its desk co-heads, five brokers at other interdealer firms in the CDS market were fined a total of \$1.3 million and issued suspensions as part of FINRA's ongoing review:

- Thomas J. Lewis and Matthew A. Somers, former brokers and co-managers for the CDS desk at Chapdelaine Corporate Securities & Co., of New York, were each fined \$350,000 and suspended from working in the securities industry in all capacities for six months and three months, respectively.
- John P. Tompkins, a former broker and manager of the CDS desk at CreditTrade (US) Corp., of New York, was fined \$100,000 and suspended in all capacities for four months.
- Michael B. Jessop, a former broker and co-manager of the CDS desk at Tullett Liberty Inc., of New York, was fined \$250,000 and suspended in all capacities for two months.
- Eric Ridder, a former broker for Creditex Group, Inc., of New York, was fined \$250,000 and suspended in all capacities for two months.

In June 2009, FINRA fined ICAP Corporates LLC, of Jersey City, \$2.8 million and fined and suspended a former broker for related misconduct. FINRA's investigation is continuing.

FINRA found that the eight brokers engaged in communications with personnel at other interdealer brokerage firms that improperly attempted to influence those firms and individuals. These communications generally occurred after individual customer firms sought to renegotiate their CDS brokerage fees, sending schedules of proposed rate reductions separately to a number of individual interdealer brokers. The communications that the eight brokers engaged in with personnel at other interdealer brokers included reactions to customers' proposed rate reductions and statements concerning actual or contemplated interdealer broker responses or counter-positions to the customers' proposed rate reductions. Certain brokers' communications with other interdealer brokers also included discussions about creating identical, or similar, individual counter-proposals to rate reduction requests.

FINRA also found that while many of the brokers' communications typically involved one-to-one discussions with personnel from other CDS interdealer brokerage firms, certain of those discussions also referred to similar communications about the proposed fee-reduction schedules with additional interdealer brokerage firms.

Phoenix and the eight individuals settled these matters without admitting or denying the allegations, but consented to the entry of FINRA's findings.

- Somers' suspension was in effect from January 4, 2010, through April 3, 2010.
- Lewis' suspension was in effect from January 4, 2010, through July 3, 2010.
- Tompkins' suspension was in effect from January 19, 2010, through May 18, 2010.
- Jessop's suspension was in effect from February 1, 2010, through March 31, 2010.
- Ridder's suspension was in effect from February 16, 2010, through April 15, 2010.
- Lines' suspension is in effect from July 1, 2010, through September 30, 2010.
- Brodsky's suspension is in effect from August 2, 2010, through September 1, 2010.
- Wang's suspension will be in effect from November 1, 2010, through December 31, 2010.

## **FINRA Hearing Panel Bars Broker for Manipulating Stock Price Downward to Benefit Hedge Fund Client**

A Financial Industry Regulatory Authority (FINRA) hearing panel has permanently barred a former Deutsche Bank broker from the securities industry for manipulating the price of Monogram Biosciences (MGRM) stock in an effort to enrich a hedge fund client, himself and his family.

The panel found that Edward S. Brokaw, who worked in the Greenwich, CT, branch office of Deutsche Bank Securities, engaged in a pattern of trading designed deliberately to drive the value of MGRM stock down and, in turn, drive up the value of contingent value rights (CVRs) on that stock. Included in the evidence against Brokaw were tape recordings of his phone calls to his firm's trading desk to place sell orders.

The MGRM CVRs were created and issued in December 2004, in connection with the merger of two firms to form MGRM. The CVRs were to be valued during a 15-day pricing period scheduled for 18 months after the merger—beginning on May 19, 2006, and ending on June 9, 2006.

The value of the CVRs was to be determined by the volume weighted average price (VWAP) of MGRM shares trading during that 15-day period. At the end of the pricing period, CVR holders were to receive a payment from MGRM, most or all of which would be in cash. If the final VWAP was at or above \$2.90, the CVRs would be worthless. But if the final VWAP was below \$2.90, CVR holders would receive a penny-for-penny payment for the amount below \$2.90, down to \$2.02. The maximum of \$.88 per CVR would be paid if the final MGRM VWAP was at or below \$2.02.

Brokaw's hedge fund client held approximately 18.5 million CVRs—nearly 30 percent of the 64.8 million MGRM CVRs outstanding. For every penny the final VWAP dropped below \$2.90, the value of the hedge fund's CVRs increased by \$185,000. If the maximum payout of \$.88 per CVR were achieved, the hedge fund would receive approximately \$16 million. Brokaw and his family owned 217,000 of the CVRs, with a potential maximum payout of \$188,000.

The hearing panel decision notes that the hedge fund owned 3 million shares of MGRM and told Brokaw that it wanted to sell off all of those shares during the pricing period. Prior to market open on the first day of the pricing period, the hedge fund placed an order with Brokaw to sell 50,000 MGRM shares close to the open and another 50,000 shares close to the close. In a tape-recorded phone call that morning, Brokaw told a Deutsche Bank sales trader, "Take 50,000 MGRM at the market. Sell it down. Sell it as low as you want. Sell it hard, 50,000." According to the panel decision, the sales lasted little more than a minute—and MGRM shares dropped from \$2.06 to \$1.94.

The panel decision quotes another phone call from Brokaw to the sales trader that afternoon, in which he explained the pricing of the CVRs and the strategy behind the hedge fund's instructions to sell close to the market's open and close, saying, "Just so you know what the target price is... So yeah, understand the game that's being played for the next 15 days."

The hedge fund's orders and Brokaw's aggressive placement of those sell orders continued for three trading days. But when Deutsche Bank's compliance personnel reviewed those orders, the firm decided it would no longer execute MGRM sales for the hedge fund's account. Deutsche Bank first suspended, then terminated Brokaw based on his MGRM sales orders for the hedge fund.

The hearing panel concluded that "the objective of the selling strategy was to drive down the price of MGRM shares rather than to obtain the best price ... (Brokaw) placed the orders to artificially depress the price of MGRM to impact the pricing of the CVRs." The panel noted that for every penny MGRM stock dropped, the hedge fund lost \$29,000 in value on its shares but gained more than \$180,000 in value on its CVRs.

The panel also found that Brokaw violated Deutsche Bank's policy requiring the individual accepting a client order to create an order ticket "immediately upon receipt of an order." Instead, Brokaw's sales assistant completed one "booking ticket" each day, each showing a single 100,000-share order to sell, each with a false notation that the order was given by the client directly to the trading desk rather than to Brokaw—thus circumventing automatic branch office compliance review of the orders.

Unless the hearing panel's decision is appealed, its ruling will resolve charges filed in a FINRA complaint against Brokaw filed in December 2008.