

# Disciplinary and Other FINRA Actions

## Firm Fined, Individuals Sanctioned

**Freedom Investors Corp. (CRD® #23714, Brookfield, Wisconsin), Joel Reid Blumenschein (CRD #1372334, Registered Principal, Pewaukee, Washington) and Gary Lee Gossett (CRD #1939514, Registered Principal, Spokane, Washington)** submitted an Offer of Settlement in which the firm was censured, fined \$30,000, jointly and severally, with Blumenschein, and shall retain an Independent Consultant to conduct a comprehensive review of the adequacy of the firm's policies, systems, and procedures and training. Blumenschein was also suspended from association with any FINRA® member in any principal capacity for three months. Gossett was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months.

Without admitting or denying the allegations, the firm, Blumenschein and Gossett consented to the described sanctions and to the entry of findings that Gossett recommended penny stock transactions to a customer that were unsuitable based on the customer's financial situation and needs. The findings stated that Gossett marked the order memoranda for some of the trades as unsolicited orders although Gossett had solicited them, causing the firm's books and records to be inaccurate, and Gossett effected the transactions on a discretionary basis, without the customer's or the firm's prior written authorization. The findings also stated that the firm's chief compliance officer (CCO) sent the customer a formal settlement agreement guaranteeing the customer against loss, which included a provision that conditioned on the settlement the customer would not file a complaint with FINRA. The findings also included that Blumenschein was the CCO's supervisor and although aware she was corresponding with the customer concerning a settlement, did not review her letters and allowed her to draft and sign a revised agreement despite knowing FINRA's objections to the first agreement and without reviewing the document.

FINRA found that although Gossett had been placed on heightened supervision when he became associated with the firm, Blumenschein, as his immediate supervisor, failed to review his transactions in the customer's account although he knew that trades were not suitable for the customer. FINRA also found that the firm, acting through Blumenschein, failed to design and implement a system to reasonably supervise customer transactions effected by firm representatives. In addition, FINRA determined that Blumenschein's supervisor failed to review his supervision of firm registered representatives and failed to determine if Blumenschein properly supervised Gossett's trading activity in customer accounts; this failure contributed to the firm's failure to detect Gossett's unsuitable recommendations in the customer's account.

## Reported for June 2012

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).

Moreover, FINRA found that the firm entered into a settlement with a customer that exceeded \$15,000, and through its CCO, failed to timely disclose the receipt of the written complaint and the settlement to FINRA within 10 days. Furthermore, FINRA found that because the firm failed to accrue the liability resulting from the loss guarantee it made to the customer, its net capital was reduced, resulting in it conducting a securities business without the required net capital for four months so that the firm's books and records and Financial and Operational Combined Single (FOCUS) filings were inaccurate, and the firm failed to provide timely notice of its net capital deficiency to the Securities Exchange Commission (SEC) and FINRA.

The findings also stated that Blemenschein met with Gossett and partially completed a firm offsite compliance review form that was provided to the CCO prior to a FINRA firm examination. The CCO completed the form and provided it to FINRA although she knew, or should have known, that the information she wrote was false or misleading, and she and the firm maintained the altered document in the firm's records for more than three years without informing FINRA that the document had been altered. The findings also included that the altered and inaccurate document was provided to FINRA in response to a FINRA request for information.

Blumenschein's suspension is in effect from May 21, 2012, through August 20, 2012. Gossett's suspension is in effect from May 7, 2012, through November 6, 2013. ([FINRA Case #2010025132201](#))

## Firm and Individual Fined

**First Kentucky Securities Corporation (CRD #7524, Frankfort, Kentucky) and Frederick Jennings Kramer (CRD #2299599, Registered Principal, Owensboro, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which the firm and Kramer were censured and fined \$15,000, jointly and severally. Pursuant to the settlement, the firm is also required to provide FINRA with the report of the independent test of its anti-money laundering (AML) compliance program for the last two years, complete the 2012 independent AML test by the end of the year, and provide FINRA with the report from this test by January 11, 2013. Without admitting or denying the findings, the firm and Kramer consented to the described sanctions and to the entry of findings that the 2009 independent AML test was inadequate because it was limited to the review of deposit slips for one branch office, rather than sampling different transactions at all branch locations. The findings stated that the test did not include a review of the firm's AML procedures, nor did it include a review of the overall adequacy of the firm's AML compliance program. Moreover, the test did not include a sample of all of the firm's business lines, review of the firm's AML training program and its customer identification program (CIP), and whether its representatives were complying with the CIP. The findings also stated that the test failed to review for the movement of funds previously deposited in accounts with the firm. Despite the requirement that the

firm monitors compliance with the Bank Secrecy Act and the regulations promulgated thereunder, and despite the formal action FINRA brought against the firm as described above, the firm, acting through Kramer, failed to conduct and evidence an adequate independent test of its AML compliance program for 2009. The findings also included that the firm, acting through Kramer, failed to conduct and evidence an adequate independent test of its AML compliance program for 2009, despite repeated warnings that the test was required. ([FINRA Case #2010021314101](#))

## Firms Fined

**BGC Financial, L.P. (CRD #19801, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted a disqualified individual to associate with the firm without regulatory approval. The findings stated that the firm filed a Uniform Application for Securities Industry Registration or Transfer (Form U4) on the individual's behalf, seeking his registration as a General Securities Representative. Around that time, the individual informed the firm that he was subject to disqualification with respect to association with a member firm. The firm filed a membership continuance application with FINRA seeking permission for the individual to associate with it, but that application was never approved. Nevertheless, the individual engaged in the securities business of the firm, sitting on one of its trading desks and engaging in trading and brokerage activities. The findings also stated that the firm failed to establish and maintain a supervisory system and establish, maintain and enforce WSPs reasonably designed to achieve compliance with applicable securities laws and regulations with regard to the association of disqualified individuals with the firm. In addition, the firm failed to establish and maintain a supervisory system and establish, maintain and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations with regard to the association of disqualified individuals with the firm. Specifically, the firm failed to clearly assign responsibilities for ensuring that representatives were properly registered, provide for a system of communications between those persons, require reviews on a sufficiently frequent basis, or have a process in place addressing the amount of access unregistered persons would have to its electronic communication and trading systems. ([FINRA Case #2009020627602](#))

**Broadband Capital Management, LLC (CRD #48001, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain emails that its associated persons sent and received in a four-month period in a non-rewriteable, non-erasable format as required. ([FINRA Case #2010024404201](#))

**Brokers International Financial Services, LLC (CRD #139627, Panora, Iowa)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$16,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it was required to make disclosure event filings and to file Form U4 or Uniform Termination Notice for Securities Industry Registration (Form U5) amendments. The findings stated that the firm failed to make timely filings, made inaccurate disclosure event filings in another instance, failed to make a disclosure event filing regarding material information for one of its registered representatives, failed to timely file Form U4 or U5 amendments, and filed a late and an inaccurate Form U4 and an inaccurate Form U5 regarding the material information for the same registered representative. The findings stated that the firm allowed a statutorily disqualified person to associate with the firm prior to approval. The findings also stated that the firm failed to maintain WSPs reasonably designed to achieve compliance with applicable securities laws and regulations. The firm utilized recruiting and hiring guidelines that were inaccurate and inadequate regarding the hiring and registration of statutorily disqualified persons. ([FINRA Case #2011025492901](#))

**BTIG, LLC (CRD #122225, San Francisco, California)** 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 transmitted reports to the Order Audit Trail System (OATS™) that contained inaccurate, incomplete or improperly formatted data; the firm failed to submit the special handling code of “DIR” for directed orders on OATS reports, failed to submit desk reports to OATS for orders, submitted erroneous route reports for two orders and failed to submit route reports for two orders. The findings stated that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price and failed to disclose its correct capacity in transactions. The findings also stated that the firm provided written notification to its customers that contained an incorrect disclosure about its remuneration in transactions by referring to its remuneration as a commission instead of a markup/markdown or commission equivalent where the firm acted in a principal or riskless principal capacity. ([FINRA Case #2010021590201](#))

**Convergex Execution Solutions LLC (CRD #35693, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$32,000 and required to revise its WSPs. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it inaccurately categorized limit orders as market orders for SEC Rule 605 order classification purposes. The findings stated that the firm failed to submit data to OATS or submitted inaccurate data; the reports contained inaccurate timestamps, omitted or contained inaccurate account type codes and omitted route order IDs. The findings also stated that the firm failed to establish, maintain, and enforce written policies and procedures reasonably designed to prevent trade-throughs of protected quotations in national market system (NMS) stocks that do not fall within any applicable exceptions, and if relying on an exception, are reasonably

designed to assure compliance with the terms of the exception. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA and SEC rules. FINRA found that the firm's WSPs failed to provide for one or more minimum requirements for adequate WSPs in order handling, trade reporting, sale transactions, trading during a halt, OATS, books and records, minimum price increments, multiple market participant identifiers (MPIDs) and regulation Alternate Trading System (ATS). ([FINRA Case #2010021483401](#))

**Edward D. Jones & Co., L.P. dba Edward Jones (CRD #250, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$55,000 and ordered to pay \$13,231.52, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in corporate fixed income transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. 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 best execution of corporate fixed income transactions. The findings also stated that the firm purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction, and of any securities exchanged or traded in connection with the transactions, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. The findings also included that the firm submitted incorrect short interest position reports to NASD® or FINRA. ([FINRA Case #2006005438901](#))

**Essex Financial Services, Inc. (CRD #127549, Essex, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$30,000, and required to certify to FINRA in writing that the firm has reviewed its supervisory system and procedures for mutual fund sales charge waivers based on a customer's status as an advisory client for compliance with FINRA rules and the federal securities laws and regulations, and that the firm currently has in place systems and procedures reasonably designed to achieve compliance with those rules, laws and regulations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system and to establish, maintain and enforce WSPs reasonably designed to achieve compliance relating to waivers of mutual fund sales charges. The findings stated that as a result, firm registered representatives improperly sought sales charge waivers in connection with mutual fund transactions totaling approximately \$31,390,670. Those representatives placed the mutual

fund trades involving Class A shares for customers at Net Asset Value (NAV) despite the fact that the purchases did not qualify for that pricing. The findings also stated that when the representatives entered the trades electronically, they improperly indicated that the mutual fund purchases were occurring in advisory accounts, which would qualify the customers to purchase the shares without paying the initial sales charge as outlined in the prospectus for each fund. The purchases at issue, however, were in non-advisory accounts at the firm. The findings also included that the improper sales charge waivers the firm representatives entered caused the firm's books and records to contain false information regarding the customers' entitlement to such waivers. FINRA found that the firm failed to provide for effective follow-up and review or otherwise monitor mutual fund transactions to ensure that the sales charge waivers were granted in appropriate circumstances. ([FINRA Case #2010020870501](#))

**Estrada Hinojosa & Company, Inc. (CRD #19299, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in connection with its municipal securities underwriting business, it failed to timely file Official Statements (OSs) and failed to timely file, or file at all in some cases, Advance Refunding Documents (ARDs) with the Municipal Securities Rulemaking Board (MSRB) on its EMMA system. The findings stated that an underwriter is required to submit Form G-32 and the OS for a municipal security offering to the MSRB, through its EMMA system, within one business day after receipt of the OS from the issuer, but no later than the closing date of the offering, or deliver notice to EMMA. The findings also stated that an underwriter to primary offerings that advance-refund outstanding municipal securities is required to submit the ARD to EMMA, along with Form G-32 information, no later than five business days after the closing date of the offering. The findings also included that the firm's WSPs in effect during the period had gaps relating to G-32 compliance, filing preliminary OSs with EMMA, submitting notices to EMMA if final OSs were not filed timely, procedures requiring review of G-32 report cards information required in Form-32, instructions on filing ARDs and instructions on filing amendments to offerings on EMMA. ([FINRA Case #2011025613101](#))

**E\*Trade Securities LLC (CRD #29106, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the Trade Reporting and Compliance Engine® (TRACE®) transactions in TRACE-eligible securities it was required to report. ([FINRA Case #2008016437701](#))

**FISN, Inc. dba First Internet Securities Network (CRD #18498, Bethesda, Maryland)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000, and required to, no later than 30 days after the acceptance of the AWC, discontinue any use of the phrase "Federally Insured Savings Network." To the extent that the firm makes any advertising or sales literature available to the public or any customer

more than 30 calendar days after the AWC has been accepted, the firm must first submit such material to FINRA for review. Any advertising or sales literature not submitted for review must be removed from the website or otherwise made unavailable to the public or any customer until after it has been submitted to FINRA for review. The firm shall take all reasonable steps to withhold, or cause to be withheld, such material from further publication until changes specified by FINRA have been made, and such material will be revised and re-filed prior to any use, unless otherwise agreed to by FINRA. These requirements shall remain in effect for one year following the acceptance of the AWC. Unless the firm files a Uniform Request for Broker-Dealer Withdrawal (Form BDW) within 30 days after the acceptance of the AWC, the firm must file an amendment to its Uniform Application for Broker-Dealer Registration (Form BD) to delete all references to the phrase “Federally Insured Savings Network” and certify by a letter signed by its president that it has complied with these undertakings no later than 30 days following acceptance of this AWC.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its website included statements suggesting that the firm and the products it sold were federally insured, when in fact, they were not. The findings stated that the firm listed numerous types of fixed-income securities labeled CD Alternatives, suggesting that these investments had features and risks comparable to the features and risks of certificates of deposit (CDs) when they did not. The findings also stated that the firm’s website included statements regarding CDs the firm sold that were unwarranted and lacked a sound basis in fact. The firm’s website suggested that the rates the firm found and published were the safest and highest rates and best yields available when they may not have been. The findings also stated that the firm made available, both in hard copy and through its website, a brochure that contained several statements that were unwarranted and lacked a sound basis in fact regarding its products and services.

([FINRA Case #2008012866001](#))

**Great Point Capital LLC (CRD #114203, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000 and required to revise its WSPs regarding wash trades, disclosure of outside accounts by associated persons and reviews of transactions in those outside accounts. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning wash trades. 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 providing for minimum requirements for adequate supervisory procedures in disclosure of outside accounts by associated persons and reviews of transactions in those outside accounts. The findings also stated that the firm failed to provide documentary evidence that it conducted supervisory reviews of transactions in its associated persons’ outside accounts. ([FINRA Case #2006005157102](#))



**Harbor Financial Services, LLC (CRD #25700, Mobile, Alabama)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$5,000 and ordered to pay \$19,152.70, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it utilized the clearing firm's automated commission schedule, pursuant to which it charged commissions on certain purchases and sales of primarily low-priced securities that were not fair and reasonable; as a result, it charged \$19,152.70 in excessive commissions. The findings stated that the firm's supervisory system was inadequate because, in relying on the clearing firm's commission schedule and in setting commissions on transactions, it failed to consider, for each specific transaction, the factors delineated in NASD Interpretative Material 2440-1(b). ([FINRA Case #2010020893401](#))

**HFP Capital Markets LLC (CRD #44351, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in anticipation of hiring a number of registered representatives from another broker-dealer, the firm encouraged and helped the registered representatives to give non-public confidential information belonging to that other broker-dealer's customers to the firm without proper notice to the customers and without affording the customers a reasonable opportunity to opt out of the disclosure. The findings stated that the non-public confidential information included the customers' social security numbers, account numbers, driver's license numbers, dates of birth and financial information. The firm also facilitated the transfer of the customer information from the registered representatives to the firm's clearing firm. The findings also stated that the firm caused the other broker-dealer to violate Regulation S-P. ([FINRA Case #2009019320201](#))

**Janney Montgomery Scott LLC (CRD #463, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$55,000, ordered to pay \$1,599.67, plus interest, in restitution to customers, and to revise its WSPs. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders fully and promptly. The findings stated that in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm incorrectly marked its ledger as long when its position was short, failed to maintain customer confirmations, failed to document accurate opening and closing proprietary positions, failed to show the correct entry time on brokerage order memoranda and failed to provide order memoranda for brokerage orders. The findings also included that the firm incorrectly reported the second leg of riskless principal transactions as agent to the FINRA/NASDAQ Trade Reporting Facility (FNTRF) and transmitted reports to OATS that contained inaccurate timestamps, and omitted or contained inaccurate account type codes.



FINRA found that the firm executed short sale transactions and failed to report each of the transactions to the FNTRF with a short sale modifier, and executed short sale orders and failed to properly mark the orders as short. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA/SEC rules addressing order handling, best execution, anti-intimidation, trade reporting, sale transactions, trading during a halt, order entry errors, soft dollar accounts, OATS, sub-penny rules, electronic communication, backing away and Chinese Walls. In addition, FINRA determined that the firm failed to establish, maintain and enforce written policies and procedures reasonably designed to prevent trade-throughs of protected quotations in NMS stocks that do not fall within any applicable exception, and if relying on an exception, were reasonably designed to assure compliance with the terms of the exception. ([FINRA Case #2009020826501](#))

**Lawson Financial Corporation (CRD #15261, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. The firm has already paid restitution to the customer accounts. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in transactions, it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer, or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. ([FINRA Case #2008016005501](#))

**Morgan Keegan & Company, Inc. (CRD #4161, Memphis, Tennessee)** 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 its policies and procedures required that a customer's personal confidential information be shared only with that customer, and that unauthorized access or use of sensitive customer information was to be reported immediately to the firm's compliance department and its privacy officer. After the report of an incident, an analysis of the breach and notification to the appropriate states, credit bureaus and other relevant regulatory agencies was required. If the firm concluded the misuse of personal customer information was likely or had in fact occurred, its policies and procedures required prompt notification to the affected customers.

The findings stated that for approximately six months, an account username for a firm customer was erroneously linked to other unrelated customer accounts so that the customer had unapproved online viewing access to personal confidential information for unrelated customer accounts. After the customer information for the unrelated accounts

appeared on a firm Web access oversight branch report (Mor354 Report) reflecting that a consent form was missing for the accounts, and after the customer's relative notified the firm's branch office, the unrelated accounts were no longer associated with the customer's username. The findings also stated that the customer had unauthorized online viewing access to the unrelated customer accounts for approximately six months. The firm did not notify the affected customers for more than a year.

The findings also included that another customer maintained an account at another firm branch office, discovered he had unapproved and erroneous online access to unrelated customer accounts, and contacted a sales assistant, who then contacted the branch's information technology staff, who could not determine who improperly linked the customer's username to the unrelated accounts or when they were incorrectly linked. Despite researching the issue, the firm's technology help desk staff was unable to determine how the customer's access was linked, and the firm staff deleted the erroneous customer username.

FINRA found that the firm determined that because the username was not accessed until the customer consented to the client access agreement, the unrelated accounts did not appear on any previous Mor354 Reports. The firm did not notify the affected customers until 10 months after the breach was reported to the firm. FINRA also found that in this same branch office, the firm failed to detect and address a data breach in which, for approximately seven months, another customer received monthly accounts summaries for unrelated firm customers with his account statement summaries. Although the firm department responsible for batching monthly account statements stopped sending the customer the unrelated account statement, the firm could not explain how the erroneous batching occurred and did not provide notice of the breach to the affected customers for approximately eight months after the breach was reported to the firm. In addition, FINRA determined that the firm's policies and procedures failed to provide sufficient safeguards to detect, monitor and report customer data breaches, and failed to provide adequate training to certain employees regarding customer breaches. As a result, the firm employees failed to recognize that an unauthorized customer account data breach occurred when customer accounts shown as linked on the Mor354 Report were also missing customer consent forms for online account access, and the data breach had to be reported to the firm's compliance department and privacy officer. Moreover, FINRA found that firm employees failed to recognize that another customer's ability to view unrelated accounts was a data breach, which had to be reported to the compliance department and privacy officer. Firm employees failed to report to the compliance department and privacy officer that a customer had been improperly sent account statements for unrelated customers. ([FINRA Case #2010022554701](#))

**Neuberger Berman LLC (CRD #2908, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$56,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct trade time to the Real-time Transaction Reporting System (RTRS) in municipal securities transaction reports, and failed to report information regarding transactions to the RTRS in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual by failing to report information about such municipal securities transactions within 15 minutes of trade time to an RTRS Portal. The findings stated that the firm failed to show the correct execution time on the memorandum of transactions and failed to document the execution time on the memorandum of transactions for the firm's account executed with another broker or dealer. ([FINRA Case #2009019434401](#))

**Oriental Financial Services Corp. (CRD #29753, San Juan, Puerto Rico)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000, required to file Rule 4530 event filings attached to the AWC within 60 days of acceptance of it, and required to submit to FINRA a certification that it has complied with the requirements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it filed statistical and summary reports of customer complaints in an untimely manner; these untimely reports included reports that were delayed up to 397 days and some of the reports were inaccurate because they failed to disclose certain information FINRA required. The findings stated that the firm failed to make accurate and timely 3070(a) filings for reportable event disclosures, and failed to timely amend Forms U4 and U5. The firm failed to enforce its procedures regarding NASD Rule 3070 reporting and filing Forms U4 and U5 to ensure the timely and accurate filing of the required information. The findings also stated that the firm failed to adequately train the personnel assigned to these reporting tasks to ensure compliance with its reporting obligations. ([FINRA Case #2010021255501](#))

**Paulson Investment Company, Inc. (CRD #5670, Portland, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and ordered to pay \$582.11, plus interest, in restitution to customers. In connection with a matter, the firm already provided proof of full or partial customer restitution with respect to some of the transactions. The restitution amounts have been adjusted accordingly. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders fully and promptly. The findings stated that in transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. ([FINRA Case #2009017667501](#))

**Piper Jaffray & Co. (CRD #665, Minneapolis, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it engaged in numerous short sales of a common stock when an Emergency Order of the SEC prohibited short sales in that security. The findings stated that when the Commission announced the Emergency Order, the firm created a spreadsheet to keep track of the companies the order covered; and when the Commission amended the Emergency Order to delegate to national securities exchanges the authority to add or remove securities from the coverage of the order, the New York Stock Exchange (NYSE) made certain changes to the list of stocks the Emergency Order covered, including removing the common stock of an investment banking and alternative asset management firm. The findings also stated that the firm updated its spreadsheet to reflect this change to the Emergency Order and incorrectly removed from the spreadsheet the ticker symbol for an Included Financial Firm. The NYSE had not removed the stock of a company from the Emergency Order. The findings also included that as a result of the incorrect removal of the company from the firm's spreadsheet, the firm entered and executed short sale orders for numerous shares of the prohibited company's securities over the course of several trading days and through multiple executions. Upon discovering these facts, the firm reported them to FINRA. ([FINRA Case #2008015745501](#))

**Pritchard Capital Partners, LLC (CRD #100480, Covington, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business while failing to maintain its minimum net capital requirement. The deficiency resulted from the firm's controller erroneously including trading profits twice in the firm's financial forecast; the firm's management was unaware it needed to infuse capital into the firm. The findings stated that the firm erroneously included non-allowable assets in the calculation of its assets and failed to include some vendor payables in its liabilities. The findings also stated that the firm failed to prepare and maintain an accurate general ledger, trial balance and net capital computation during this period. The inaccurate net capital computation also caused the firm to prepare and submit an inaccurate FOCUS Part IIA Report. The findings also included that on nine separate days, the firm conducted a securities business while in net capital deficiency. The firm participated in firm commitment underwritings without taking the required charge to capital on the entire amount underwritten on the business day immediately prior to the effective date of the offerings. FINRA found that in connection with the net capital deficiencies, the firm failed to provide the required notice to the SEC and FINRA of these net capital deficiencies in a timely manner. ([FINRA Case #2011025645601](#))

**Scarsdale Equities LLC (CRD #134602, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions

and to the entry of findings that it did not retain email communications related to its business that were sent to and from the personal email account used by one of its registered representatives, and did not adequately enforce its WSPs. The findings stated that the registered representative used his personal email account to transmit business-related emails, which the firm's WSPs prohibited, and the firm had been previously put on notice of the registered representative's use of personal email to conduct firm business. ([FINRA Case #2011025823301](#))

**Susquehanna Capital Group (CRD #29337, Bala Cynwyd, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained one or more errors or omissions, such as failure to include the "not held" term or condition, failure to submit route reports, including incorrect destination codes and including incorrect cancel information. ([FINRA Case #2010021598901](#))

**UVEST Financial Services Group, Inc. (CRD #13787, Charlotte, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$230,000, and undertakes to provide remediation to all customers who, for a period of more than two years, qualified for, but did not receive, appropriate sales charge discounts on Unit Investment Trust (UIT) purchases, rollovers and exchanges; and within 210 days from the date this AWC is accepted, the firm is required to complete the remediation process and submit to FINRA a schedule of all customers identified during the firm's review as having not received an appropriate sales charge discount. 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 an effective supervisory system and WSPs reasonably designed to ensure that sales charge discounts were correctly applied on eligible UIT purchases. The findings stated that the firm relied primarily on its brokers to ensure that customers received appropriate UIT sales charge discounts, despite the fact that the firm failed to appropriately inform and train brokers and their supervisors about such sales charge discounts. As a result of the firm's defective WSPs and supervisory system, it failed to provide eligible customers with appropriate sales charge discounts on UIT purchases, rollovers and exchanges. The findings also stated that the firm failed to identify and appropriately apply sales charge discounts in UIT transactions so that it overcharged customers approximately \$44,048.07. Firm customers purchased UITs in brokerage accounts and the firm earned \$3,704,781.81 in gross commissions through those purchases. The findings also included that the firm failed to establish, maintain and enforce a supervisory system and WSPs reasonably designed to ensure delivery of prospectuses in connection with sales of UITs as required by Section 5(b)(2) of the Securities Act of 1933. The firm does not have any records regarding whether customers who purchased UITs during this period received prospectuses.

FINRA found that the firm inaccurately reported to the MSRB the execution time and failed to maintain order memoranda for municipal securities transactions. Where the firm did maintain an order memorandum, transactions were incomplete in that they were missing required information (e.g., time of order receipt, entry and execution, and execution price). FINRA also found that firm registered representatives engaged in activities that should have been disclosed under the “Other Business” section of their Forms U4. For some registered representatives, the firm disclosed their outside business activities from 30 days to more than three years after the registered representatives informed the firm of the activity. For one of those representatives, the Form U4 was not updated to disclose the other business activity until after she left the firm, which was four months after she disclosed the activity to the firm. In addition, FINRA determined that the firm lacked adequate written supervisory control procedures, in that the procedures did not require that a notification of customer’s address change be sent to the customer’s old address of record and did not describe the confirmation process for investment objective changes; and the procedures failed to describe how producing managers would be supervised, who would supervise them, when they would be supervised and what would be done to supervise them. ([FINRA Case #2009016347101](#))

## Individuals Barred or Suspended

**Milton Charles Ault III (CRD #2157788, Registered Principal, Fountain Valley, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$75,000, suspended from association with any FINRA member in any capacity for two years and ordered to pay \$312,916.06, plus interest, in restitution to investors. The fine must be paid either immediately upon Ault’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, Ault consented to the described sanctions and to the entry of findings that he effected transactions in customer accounts (and the relatives of two of the customers) without the customers’ prior knowledge, authorization or consent. The findings stated that Ault failed to remit payment for a securities transaction to a customer and failed to deliver securities to the customer.

The suspension is in effect from May 7, 2012, through May 6, 2014. ([FINRA Case #2008016157101](#))

**Corey Lamar Battey (CRD #4123425, Registered Representative, Clermont, Florida)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine shall be due and payable if and when Battey re-enters the securities industry. The sanctions were based on findings that Battey failed to timely respond to FINRA requests for documents and information.

The suspension is in effect from April 16, 2012, through October 16, 2012. ([FINRA Case #2009021048402](#))

**Daniel Edward Becerril II (CRD #4489715, Registered Representative, Huntington Beach, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Becerril made willful misrepresentations and omissions to a customer by telling her that he would invest a \$11,500 inheritance in a mutual fund, when in fact he deposited the funds in an account that he controlled, thereby converting the funds to his own use. The findings stated that Becerril misused the customer's funds and engaged in an extended course of misconduct to avoid and postpone the return of the customer's funds. The findings also stated that Becerril failed to produce documents FINRA requested during an on-the-record interview. ([FINRA Case #2009018944001](#))

**Michelle R. Bennett (CRD #3219787, Associated Person, Murfreesboro, Tennessee)** submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Bennett consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests to provide investigative testimony during an on-the-record interview. ([FINRA Case #2011028344701](#))

**Brent Robert Bishop (CRD #2348912, Registered Principal, Tulsa, Oklahoma)** was barred from association with any FINRA member in any capacity and ordered to pay restitution in the total amount of \$58,000, plus interest, to customers. The sanctions were based on findings that Bishop misappropriated funds from his member firm's customers by intentionally converting a total of \$40,000 from the customers, for fictitious investments with false investment certificates he provided, and using the funds for his personal use. The findings stated that Bishop's firm reimbursed, or offered to reimburse, some of the customers. The findings also stated that Bishop borrowed a total of \$74,000 from firm's customers, none of whom was a family member, contrary to his firm's written policy prohibiting its registered representatives from borrowing money from customers other than immediate family members. The findings also included that Bishop's firm did not pre-approve in writing any of the loan transactions and he never sought the firm's permission to borrow money from any customers. Bishop has not repaid the loans from his customers, but the firm reimbursed, or offered to reimburse, some of the customers. FINRA found that Bishop failed to respond to FINRA requests for information and to appear for a FINRA interview. ([FINRA Case #2010021827701](#))

**Howard Braff (CRD #1161062, Registered Principal, Holtsville, New York)** was fined \$25,000 and suspended from association with any FINRA member in any capacity for two years. The SEC sustained the sanctions following appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that Braff failed to notify his member firms, in writing, of his outside brokerage accounts, and failed to notify the executing member firms, in writing, of his employment at other member firms. The findings stated that Braff falsely represented to the firms with which he was registered that he did not have any outside brokerage accounts on firm disclosures and questionnaires.



The suspension is in effect from May 7, 2012, through May 6, 2014. ([FINRA Case #2007011937001](#))

**Tsarina Lau Branyan (CRD #5628096, Registered Representative, Huntington Beach, California)** was fined \$7,500 and suspended from association with any FINRA member in any capacity for 20 business days. The fine shall be due and payable if and when Branyan re-enters the securities industry. The sanctions were based on findings that Branyan sold or participated in the sales of securities without being registered. The findings stated that Branyan did not hold any FINRA licenses when she sold or participated in the sale of approximately \$1 million of private placement securities to customers.

The suspension was in effect from May 7, 2012, through June 4, 2012. ([FINRA Case #2010022715608](#))

**Allyson M. Brunetti (CRD #5586353, Registered Representative, New York, 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 two months. The fine must be paid either immediately upon Brunetti'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, Brunetti consented to the described sanctions and to the entry of findings that her firm provided her with a corporate credit card, which she used for office-related expenses as well as personal expenses. Brunetti placed approximately \$21,000 in personal expenses on the card and repaid approximately \$5,000 directly to the credit card company. The findings stated that when Brunetti received the credit card statements, she reviewed the expenses, marked her initials next to personal expenses made on the card, and forwarded the statements to one of the firm's principals and to the firm's accountants. Brunetti failed, however, to initial approximately \$13,000 of her personal expenses during her review of the statements, so the charges were recorded on the firm's books as if they were business-related expenses. The findings also stated that the firm terminated Brunetti for this conduct. The firm provided her with severance and agreed to pay all of the personal expenses that she had charged on the card. The firm later characterized the charges as loans to Brunetti.

The suspension is in effect from May 7, 2012, through July 6, 2012. ([FINRA Case #2011027119801](#))

**Kevin Patrick Burke (CRD #5772277, Associated Person, Sullivan, Ohio)** was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine shall be due and payable if and when Burke seeks to re-enter the securities industry. The sanctions were based on findings that Burke failed to timely respond to FINRA requests for information and documents.

The suspension is in effect from May 7, 2012, through May 6, 2013. ([FINRA Case #2010024195702](#))

**Joel William Carlson (CRD #2844760, Registered Representative, Vadnais Heights, Minnesota)** 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, Carlson consented to the described sanction and to the entry of findings that he solicited his member firm's customers to give him a total of at least \$734,000, fraudulently misrepresenting to the customers that he would safely invest their money in securities, but converted the money to his personal use. The customers gave Carlson personal checks that he instructed be made payable to an entity that he controlled and deposited the customers' checks in a bank account he controlled in the name of the entity. With the exception of one customer, whose investment Carlson refunded in full, with interest, he has not re-paid the customers their money. The findings also stated that the persons who gave Carlson money were between 68 and 90 years old at the time of their investments; with the exception of the youngest victim, all of the investors were retired. ([FINRA Case #2012031202901](#))

**Jeffrey Wayne Cimal (CRD #2028791, Registered Principal, Parkland, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for five months. Without admitting or denying the findings, Cimal consented to the described sanctions and to the entry of findings that he served as his member firm's CCO and for more than three years was responsible for reviewing transactions to ensure that customers received best execution and to conduct surveillance for trading patterns that could potentially violate FINRA rules or federal securities laws. The findings stated that despite this responsibility, Cimal did not detect two representatives' numerous corporate debt transactions that did not provide customers best execution and/or involved interpositioning of an affiliated account. The net result was that the firm and/or accounts of its affiliates realized excessive trading profits. The findings also stated that Cimal did not take sufficient supervisory action reasonably designed to prevent the trading pattern from continuing during the relevant time period.

The suspension is in effect from May 21, 2012, through October 20, 2012. ([FINRA Case #2010023001601](#))

**James Thomas Corne (CRD #4184489, Registered Representative, Duncan, South Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Corne'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, Corne consented to the described sanctions and to the entry of findings that he falsified customers' signatures on various securities and non-securities-related documents. Corne directed his assistant to cut a customer's signature from a variable universal life (VUL) application and affix it to another VUL application. The findings stated that on

other occasions, customers' signatures were cut and pasted onto variable annuity (VA) applications, a fixed annuity application and automobile insurance policies. The documents with the cut and pasted signatures were submitted to Corne's member firm or the relevant insurance company for processing.

The suspension is in effect from May 7, 2012, through August 6, 2012. ([FINRA Case #2010022792501](#))

**Gary Lee Cousino (CRD #726486, Registered Representative, Mackinac Island, Michigan)** 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, Cousino consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information regarding its investigation of lawsuits and an arbitration action filed by a prior securities customer alleging, among other things, an unauthorized trade, fraud, unsuitability and breach of fiduciary duty by Cousino. The findings stated that through his attorney, Cousino sent FINRA a letter declining to respond in any manner to FINRA's requests for information. ([FINRA Case #2010023057601](#))

**Daniel Vincent Covello (CRD #55478, Associated Person, Oyster Bay Cove, New York)** 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 month. Without admitting or denying the findings, Covello consented to the described sanctions and to the entry of findings that he associated with a member firm as a disqualified individual without regulatory approval. The findings stated that the firm filed a Form U4 on Covello's behalf, seeking his registration as a General Securities Representative. Around that time, Covello informed the firm that he was subject to statutory disqualification with respect to association with a member firm. The findings also stated that the firm filed a membership continuance application with FINRA seeking permission for Covello to associate with it, but that application was withdrawn before a determination was made. Nevertheless, Covello engaged in the securities business of the firm, sitting on one of its trading desks, and engaging in trading and brokerage activities.

The suspension is in effect from May 21, 2012, through June 20, 2012. ([FINRA Case #2009020627601](#))

**Kenneth Richard Doctor (CRD #4835927, Registered Representative, Muskegon, Michigan)** 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, Doctor consented to the described sanction and to the entry of findings that he willfully failed to disclose material information in an amended Form U4 filing, and failed to respond to FINRA requests for information and to provide testimony. ([FINRA Case #2011026123501](#))

**Catheryne June Downs (CRD #1902766, Registered Representative, Sunland, California)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Downs' 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, Downs consented to the described sanctions and to the entry of findings that she sold approximately \$12.5 million in equity-indexed annuities (EIAs) without providing prompt written notice of these sales to her firm. The findings stated that Downs earned approximately \$935,000 in revenue from these transactions. Downs was responsible for knowing the firm's policy requiring EIA business to be submitted through the firm, and she received notice of this policy in an outside business activity form and a compliance questionnaire. The findings also stated that the firm learned from an insurance company that Downs had submitted EIA applications directly to it and started an internal investigation.

The suspension is in effect from May 7, 2012, through November 6, 2012. ([FINRA Case #2010024183401](#))

**Thomas Shannon Ensign (CRD #1343540, Registered Representative, Delaware, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ensign consented to the described sanction and to the entry of findings that he contacted a member firm customer whose account he serviced and offered to invest the customer's money in a short-term loan to a restaurant owner. Ensign did not notify his firm that he was soliciting investors. The findings stated that the customer agreed to invest \$40,000 and wired the funds to a bank account Ensign controlled and maintained. Ensign transferred \$23,000 of the customer's funds from the account to his joint account with a relative and used the funds to pay his personal credit card bill without the customer's knowledge or authorization. The findings also stated that Ensign subsequently wired \$44,000 to the customer's firm brokerage account to repay the funds not invested with the restaurant owner. The findings also included that Ensign failed to promptly amend his Form U4 with material information regarding a judgment and failed to respond to FINRA requests for information and documents, thereby hindering FINRA's ability to fully investigate the matters at issue. ([FINRA Case #2010023927101](#))

**John Herman Fick (CRD #4197483, Registered Representative, Fuquay-Varina, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Fick'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, Fick consented to the described sanctions and to the entry of

findings that he signed customers' names to insurance policy-related documents without the customers' knowledge or consent. The findings stated that Fick falsified an insurance application for a customer. Because Fick was no longer associated with a member firm, he was unable to sell his former firm's insurance products, and never submitted to the former firm the application that the customer had completed and returned to him. Instead, Fick filled out an insurance application for the customer for a policy from his present firm's parent company, using an incorrect address for the customer's residence address on the application and incorrect information for the customer on the application. Without authorization to do so, Fick signed the customer's name on the insurance application and submitted it to the insurance company. An official from the company noticed the suspicious signature on the customer's application and the application was canceled before a policy was issued. The findings also stated that while associated with another member firm, Fick signed a customer's name on an insurance policy receipt and a payment service form without authorization. Fick was scheduled to meet with the customer the following day to have both documents signed, but Fick signed the documents prior to the meeting. The findings also included that the firm terminated Fick when the unauthorized signatures were discovered.

The suspension is in effect from May 7, 2012, through November 6, 2013. ([FINRA Case #2010025071201](#))

**Thomas Rudolph Fortino (CRD #2579139, Registered Principal, Glen Ellyn, Illinois)** 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 10 months. The fine must be paid either immediately upon Fortino'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, Fortino consented to the described sanctions and to the entry of findings that he failed to notify his firm that he was engaged in outside EIA and certain whole life insurance sales, ignoring his firm's explicit and repeated compliance pronouncements concerning outside insurance and EIA sales. The findings stated that Fortino earned \$334,764.93 from transactions, and at least \$68,843 of this amount was attributable to EIA sales. The findings also stated that Fortino's supervisor became aware that Fortino made an unapproved EIA sale to an individual who was not a firm customer, and issued him a Letter of Caution warning him to stop the unapproved sales and that all sales of EIAs had to be submitted to the supervisor for review and approval. Fortino ignored this directive, making subsequent EIA sales without the firm's approval. The findings also included that Fortino had submitted an outside business activities questionnaire, identifying outside activities unrelated to the outside insurance and EIA sales at issue, but he did not submit questionnaires when he was later actively involved in making insurance and EIA sales away from the firm. Fortino submitted a new questionnaire in which he reported selling insurance through a company his supervisor owned that was not affiliated with the firm. None of the sales at issue occurred through this company. FINRA found that in documentation submitted with this

new questionnaire, Fortino misled his firm by reporting that he did not earn compensation from insurance-related products outside of his firm, when he did earn compensation and did not report it to the firm.

The suspension is in effect from April 16, 2012, through February 15, 2013. ([FINRA Case #2010024035801](#))

**Stephen Douglas Fransen (CRD #4258662, Registered Representative, Idaho Falls, Idaho)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Fransen consented to the described sanctions and to the entry of findings that he improperly distributed an answer key for a state insurance long-term care (LTC) continuing education (CE) exam to individuals associated with his firm, and to others not associated with the firm.

The suspension was in effect from May 7, 2012, through June 5, 2012. ([FINRA Case #2011029347501](#))

**Karen Marie Greene (CRD #2301783, Registered Representative, Southgate, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for three months. In light of Greene's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Greene consented to the described sanction and to the entry of findings that she wrote checks totaling \$5,500 from her personal checking account and deposited them into her brokerage account with her member firm, knowing that there were insufficient funds in her credit union account to cover the checks. The findings stated that in each instance, Greene immediately withdrew the funds from her brokerage account on the same day as the deposit via multiple automatic teller machine (ATM) withdrawals. The findings also stated that each of these checks was eventually returned for insufficient funds. When Greene withdrew the funds from her brokerage account, the account had insufficient funds to cover the amount of the checks. The findings also included that Greene failed to observe high standard of commercial honor and just and equitable principles of trade.

The suspension is in effect from May 7, 2012, through August 6, 2012. ([FINRA Case #2011027101801](#))

**John Brady Guyette (CRD #1711681, Registered Principal, Greeley, Colorado)** was fined a total of \$86,140, which includes disgorgement of \$76,140 in commissions, and suspended from association with any FINRA member in any capacity for 12 months. The Hearing Panel declined to order restitution because a federal court appointed a receiver to collect the issuer's assets for the investors' benefit. The sanctions were based on findings that Guyette fraudulently made misrepresentations in the course of recommending and selling investments in an offering to customers and omitted to inform customers of a material fact. The findings stated that Guyette failed to familiarize himself sufficiently

with the offering materials and the risks they described; instead, he simply relied upon what corporation employees and personnel told him. As a consequence, Guyette made representations to customers that were inconsistent with information provided in the offering materials on significant material issues. The findings also stated that when Guyette became aware of circumstances that he should have recognized as “red flag” indicators of risks, he accepted the explanations offered by corporation personnel and attempted to assuage the concerns of his customers, instead of alerting them to growing indications that the offering might not be as safe an investment as he had consistently represented. The findings also included that a principal reason for Guyette’s confidence in the notes’ safety was his acceptance of the corporation’s representations about the oversight role played by the designated bank trustee for each offering. Guyette was unaware that the private placement memorandum (PPM) described a far more limited role for the trustee bank. Even though Guyette claimed that he had read the PPM for the offering before recommending it, he did not know that the trustee was under no obligation to monitor, supervise or verify the corporation’s acts or omissions; had no responsibility to make calculations of principal or interest; was not responsible for determining any collateral coverage ratios; and was not required to monitor whether the corporation defaulted or otherwise breached its obligations.

FINRA found that Guyette did not participate in any of his firm’s due diligence committee meetings concerning the offerings, never read the firm’s due diligence reports describing the notes as high-risk and lacking liquidity, and testified that if he had read and believed the risk warnings, he absolutely would not have sold the notes to his customers. FINRA also found that Guyette’s due diligence reviews consisted primarily of his conversations with corporation employees and his trips to its office. Guyette accepted the corporation’s claim that it had not missed any timely interest or principal payments rendering his unsupported claims about the security of the notes reckless. Guyette’s knowing failure to inform investors of missed principal repayments was a material omission that reasonable investors would consider important to know prior to deciding to invest in the offering. In addition, FINRA determined that Guyette’s recommendations to his customers were unsuitable because he lacked an adequate and reasonable understanding of the risks inherent in the notes he recommended to customers. Most of his customers were conservative investors with average risk tolerance, concerned about the volatility of the stock market, and seeking a secure investment in income-producing investments. Because Guyette did not understand the risks, he was incapable of properly advising the customers and recommended that they invest in the offering.

The suspension will be in effect from July 2, 2012, through July 1, 2013. ([FINRA Case #2009018819001](#))

**Thomas Brown Hammond (CRD #2389080, Registered Representative, Fair Oaks, 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, Hammond consented to the described sanction and to the entry of findings that he solicited both his brokerage firm customers and customers of his consulting business to invest funds in a fictitious private portfolio that would earn a steady interest rate in excess of their current investments, then converted those funds for his own use. Hammond stole at least \$546,650 from several persons who were his customers at his member firm and/or customers of his consulting business. At least \$492,250 of this amount was taken from Hammond's customers at his firm. The findings stated that when his customers inquired about the state or performance of their investments, Hammond sometimes provided bogus updates of their investments, either orally or through false one-page account summaries. When asked by one customer to cash out a \$58,000 investment in the private portfolio, Hammond told the customer it would take seven days for the money to be available. A week later, Hammond returned \$48,000 to that client. Rather than coming from the private portfolio, the money used was fraudulently obtained from another customer. ([FINRA Case #2011026683401](#))

**Sean K. Hannon (CRD #4296260, Registered Representative, Cary, North Carolina)** 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, Hannon consented to the described sanction and to the entry of findings that he failed to provide investigative testimony regarding allegations of misconduct asserted against him in two arbitrations filed against him. ([FINRA Case #2010022695501](#))

**Brett Henderson (CRD #2420629, Registered Representative, North Salt Lake City, Utah)** submitted an Offer of Settlement in which he was fined \$95,000, which includes restitution of \$82,505 payable to customers, and suspended from association with any FINRA member in any capacity for 11 months. The fine, which includes the restitution, must be paid either immediately upon Henderson'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, Henderson consented to the described sanctions and to the entry of findings that he engaged in a pattern of unsuitable VA switch transactions, employing a "one-size-fits-all" investment strategy for his diverse customer base. The findings stated that Henderson justified the switches by using the same rationale that the new annuity provided better features without fully describing how it provided customers with better features. The findings also stated that the customers paid significant surrender penalties of \$82,505 for the annuity switches and Henderson received approximately \$84,296 in commissions. The findings also included that Henderson conducted inadequate independent research or analysis into the features of the VA he recommended or the different aspects and risks of the product before recommending it. Henderson did not fully read the prospectus, never considered other investment options, and only described and sold the product with one particular rider despite the fact that the VA had other living and death benefit riders; but before discussing the VA with any of his customers, and without taking into account the diversity in his customer base or the customers' individual financial conditions, Henderson had already predetermined the rider was the only one he wanted to sell.

The suspension is in effect from April 16, 2012, through March 15, 2013. ([FINRA Case #2009019513902](#))

**Thomas Eugene Hendricks (CRD #2622427, Registered Representative, Salem, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hendricks consented to the described sanction and to the entry of findings that he borrowed \$3,000 from a customer/personal friend to be repaid by a certain date, but failed to do so, and the customer complained to Hendricks' member firm. The findings stated that Hendricks' firm's written procedures prohibited borrowing from customers unless the firm approved an exception, which he did not obtain, and did not disclose to the firm that he had borrowed money from the customer. The borrowing arrangements did not fit into any of the exceptions provided for in the firm's procedures and did not otherwise meet the conditions set forth in FINRA Rule 3240. The findings also stated that Hendricks failed to respond to FINRA requests for information and sent FINRA an email indicating that he did not plan on providing a substantive response as he was no longer in the securities business. ([FINRA Case #2011028801901](#))

**Randy Craig Hester (CRD #1382578, Registered Representative, Highland Park, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$5,000 and suspended from association with any member firm in any capacity for one year. The fine must be paid either immediately upon Hester'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, Hester consented to the described sanctions and to the entry of findings that he willfully failed to notify his member firm that he had been charged with a felony and failed to update his Form U4 to reflect he had been charged with a felony. The findings stated that when Hester joined another member firm, he submitted a Form U4 on which he falsely responded to the criminal disclosure question by failing to willfully report that he had been charged with a felony. After his firm received a FINRA disclosure review letter in connection with his background check and fingerprint card results, Hester signed and submitted an amended Form U4 reporting his felony charge.

The suspension is in effect from May 7, 2012, through May 6, 2013. ([FINRA Case #2011029620401](#))

**Christopher Powell Hill (CRD #2163742, Registered Representative, Woodstock, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Hill'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, Hill consented to the described sanctions and to the entry of findings that he failed to disclose, or make timely disclosure of, material information on his Form U4.

The suspension is in effect from May 7, 2012, through June 18, 2012. ([FINRA Case #2011027201201](#))

**Kyle Timothy Holland (CRD #2308543, Registered Principal, Austin, Texas)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Holland consented to the described sanction and to the entry of findings that, acting in the capacity of his member firm's managing director, he engaged in activities requiring registration while his FINRA registrations were revoked. The findings stated that Holland willfully filed inaccurate and untimely amendments to Forms U4 concerning material information. Holland failed to file Part IIA of Form X-17A-5 in connection with two separate suspensions of his firm. The findings also stated that Holland caused his firm to violate Regulation S-P. Holland, acting on his firm's behalf, failed to provide an initial and an annual privacy notice to firm customers for several years, and failed to adopt policies and procedures that address the protection of customer information and records. Holland failed to provide for an annual independent test of the firm's AML compliance program for two years, and failed to ensure that the firm maintained and reviewed correspondence, including electronic mail correspondence, sent to and from the firm. Holland failed to ensure for two years that all of the firm's registered representatives attended annual compliance meetings. The findings also included that Holland failed to report material information relating to another individual associated with the firm, failed to report that he had been suspended, failed to report that his firm had been suspended twice, and failed to report a customer complaint the firm received. Holland received notice of these events but failed to file an NASD Rule 3070 Report within 10 business days of learning of the events.

FINRA found that for three years, Holland failed to evidence that his firm had conducted supervisory reviews of its producing managers. Holland failed to ensure that the firm submitted an NASD Rule 3012 Report to its senior management for two years. Holland failed to provide FINRA with annual notification that the firm was relying on the limited size and resources exception for two years, and filed an annual notification to FINRA late another year. Holland, as the firm's managing director, failed to submit a report by the required date; filed the firm's first report two years after the required date; and failed to adequately discuss specific areas including details on the firm's system of supervisory controls, procedures for conducting the tests and gaps analysis, and records demonstrating test completion dates. FINRA also found that Holland violated the FINRA continuing membership rule. Holland made a Form BD filing changing the name of the broker-dealer and his part ownership of the firm. FINRA informed Holland that his purchase of the firm had been denied and he had 60 days within which to file a Form BDW or unwind his purchase transaction. Nevertheless, Holland repeatedly and falsely represented to FINRA that he had unwound the purchase transaction. In addition, FINRA determined that Holland provided incomplete and untimely responses to FINRA requests for information and documents. ([FINRA Case #2008011589101](#))

**John Charles Holz (CRD #1840992, Registered Representative, Tuscon, Arizona)** 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 Holz' 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, Holz consented to the described sanctions and to the entry of findings that he willfully failed to amend his Form U4 to reflect material information within 30 days from the time he was given notice of the material information.

The suspension is in effect from May 7, 2012, through August 6, 2012. ([FINRA Case #2011026475301](#))

**Gregory Richard Imbruce (CRD #4392235, Registered Representative, Canaan, Connecticut)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The NAC imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Imbruce purchased securities in a secondary public offering from a participating underwriter after he sold the securities short during the restricted period.

The suspension was in effect from May 7, 2012, through May 18, 2012. ([FINRA Case #2008012137601](#))

**Alison Marie Janke (CRD #4409155, Registered Representative, Port Richey, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$7,500 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, Janke consented to the described sanctions and to the entry of findings that she borrowed \$100,000 from a customer based upon a personal relationship she had with the customer outside of the broker/customer relationship, contrary to her member firm's WSPs that only allowed registered representatives to accept loans from customers under limited circumstances. The firm's WSPs provided that a registered person must receive prior written firm approval before accepting a loan based on a personal relationship outside of the broker/customer relationship; Janke did not seek or obtain approval. The findings stated that when Janke became associated with another member firm, the customer transferred her account to the new firm. The findings also stated that in compliance questionnaires, Janke's new firm requested that she state whether she had ever borrowed money from a customer, and she falsely answered "no." The findings also included that when the customer complained regarding Janke's failure to timely repay the loan, they entered into a settlement agreement regarding the outstanding amounts owed.

The suspension is in effect from May 7, 2012, through November 6, 2012. ([FINRA Case #2011027400401](#))

**Anne Rutledge Josephson (CRD #3020505, Registered Representative, Cincinnati, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Josephson'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, Josephson consented to the described sanctions and to the entry of findings that she worked as a Financial Consultant Associate at her member firm and signed the names of her member firm's brokers on new account forms without authorization. The findings stated that the forms Josephson signed were for the firm's internal use only, and did not authorize the trading of any security. Josephson signed the brokers' names in her own handwriting to expedite the customer paperwork.

The suspension is in effect from May 7, 2012, through July 5, 2012. ([FINRA Case #2010025326101](#))

**James Coy Keene (CRD #1637776, Registered Representative, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Keene consented to the described sanction and to the entry of findings that he failed to amend his Form U4 to disclose material information and willfully omitted to state material information on a Form U4 in an application to become associated with another FINRA member firm. The findings stated that no information regarding the material information was included on a Form U4 the firm submitted to FINRA in order to register Keene. The findings also stated that Keene failed to respond to a FINRA request for information; Keene admitted to receiving the request, but stated that he did not intend to respond to it. ([FINRA Case #2011028100801](#))

**Robert Lyman Kelly (CRD #1121087, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Kelly'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, Kelly consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose material information regarding an unsatisfied lien.

The suspension was in effect from April 16, 2012, through May 15, 2012. ([FINRA Case #2012030868801](#))

**Thomas Edward Kelly (CRD #1386403, Registered Principal, Johnson City, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kelly consented to the described sanction and to the entry of findings that he

engaged in a scheme to defraud investors, including firm customers, of funds totaling approximately \$1 million. Kelly's scheme involved persuading potential investors to invest in an entity, which was not a firm-approved entity. Kelly did not inform investors that he was the principal owner of the entity, nor did he inform his firm of his activities with the entity or that he was recommending that customers invest in it. Kelly falsely represented to the investors that they were purchasing safe and stable investments, including "FDIC-insured" CDs and savings accounts. The findings also stated that to conceal his fraud, Kelly provided investors with fictitious account statements and tax Forms-1099, which falsely purported to reflect a return on their investments. Through these misrepresentations, Kelly converted approximately \$1 million from the investors for his own use, including repaying earlier investors, investing in the stock market and paying personal expenses. The findings also included that the firm reimbursed these customers for their stated account values, which equaled approximately \$1 million. Kelly did not contribute to the payments. A criminal complaint was filed against Kelly in the United States District Court for the Northern District of New York in connection with this conduct. ([FINRA Case #2010025344701](#))

**Mark Alan Kemp (CRD #2057200, Registered Representative, Corpus Christi, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Kemp consented to the described sanctions and to the entry of findings that he mismarked order tickets for a penny stock as unsolicited when, in fact, they were solicited, thereby causing his member firm's books and records to be inaccurate.

The suspension was in effect from May 7, 2012, through May 11, 2012. ([FINRA Case #2009018570501](#))

**Robert E. Kern (CRD #4743906, Registered Representative, Meridian, Idaho)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Kern consented to the described sanctions and to the entry of findings that in anticipation of a meeting with a former customer who had purchased an annuity from Kern, Kern impersonated the customer during a telephone call with the customer's insurance company in order to obtain information about his annuity contract. The findings stated that by impersonating the customer, Kern was able to obtain the current rate of return and the guaranteed minimum rate of return on his annuity. Kern did not have the customer's permission or authority to obtain this information in this manner. The findings also stated that Kern later met with the customer and advised him of the telephone call and impersonation. Several days later, the customer wrote a letter requesting that Kern's member firm terminate his business relationship with Kern. Thereafter, the firm terminated Kern's employment.

The suspension is in effect from May 7, 2012, through June 18, 2012. ([FINRA Case #2011030450302](#))

**Scott Bradley Kimmel (CRD #3199712, Registered Representative, Mount Sidney, Virginia)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine shall be due and payable if and when Kimmel applies to associate with a member firm following the end of his suspension. No restitution was ordered with respect to the individuals who invested in Kimmel's outside business activities; neither individual cooperated with FINRA, which made it impossible to determine the amount of their loss, if any. The sanctions were based on findings that Kimmel engaged in unapproved outside business activities without prompt written notice to his member firm, and failed to provide an updated notice of another outside business activity. The findings stated that the firm prohibited its representatives from engaging in any outside business activity without prior written notice to and written approval from the firm. Kimmel failed to provide prompt written notice to the firm regarding his involvement in the outside business activities. A few years later, when Kimmel finally submitted requests to the firm to participate in the outside business activities, the firm denied his request. The findings also stated that Kimmel requested and received the firm's approval to participate in another outside business activity, which his relative founded. Kimmel's request stated that he had recently become a 20 percent owner in the outside business activity. Although the firm permitted Kimmel to participate in the outside business, it expressly limited the scope of his participation by prohibiting him from soliciting or advising any party to invest in the business. Kimmel acknowledged this limitation when he sought the firm's approval. Despite this limitation, Kimmel solicited an investment in the business without notifying the firm or seeking its approval.

The suspension was in effect from April 16, 2012, through May 11, 2012. ([FINRA Case #2009019230401](#))

**Russell Philip Macke (CRD #1882345, Registered Representative, St. Louis, Missouri)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for two months. In light of Macke's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Macke consented to the described sanction and to the entry of findings that he engaged in excessive trading and use of margin in customers' accounts by taking advantage of his discretionary authority over the customers' accounts. The findings stated that in doing so, Macke caused these customers to pay excessive margin interest, commissions and fees. Macke was the broker of record for these accounts. These customers received approval for the use of margin on their accounts, and Macke's supervisor approved the written discretionary authority. The findings also stated that beyond holding discretionary authority over the accounts, Macke actually controlled the trading in the accounts, and the customers trusted Macke completely to make and execute recommendations in their accounts. The findings also included that the amount of trading in the accounts was inconsistent with the customers' financial circumstances and investment objectives.

The suspension is in effect from May 7, 2012, through July 6, 2012. ([FINRA Case #2008016437801](#))



**Paul J. Magana (CRD #5694340, Registered Representative, Cathedral City, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Magana'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, Magana consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing his member firm with prior written notice of the activity. The findings stated that Magana agreed to start a business venture with the chief executive officer (CEO) of a company, wherein the company would negotiate and develop construction projects overseas with financial backing from Magana and a limited liability company with whom he had prior association. Magana had a reasonable expectation of compensation due to his involvement in this business venture. The findings also stated that on behalf of the limited liability company, Magana and the limited liability company agreed to finance the CEO's company by providing a minimum of \$60,000 to assist in the anticipated construction projects overseas. At that time, Magana signed a limited liability company check for \$60,000 made payable to the company and forwarded it to the CEO. Magana also wired \$7,000 to the CEO for the purpose of paying the CEO's travelling expenses overseas to begin developing the anticipated construction projects. Magana later terminated the business venture.

The suspension was in effect from April 16, 2012, through April 27, 2012. ([FINRA Case #2011029571101](#))

**Gary Carl Mastrodonato (CRD #723366, Registered Principal, Oriental, North Carolina)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the allegations, Mastrodonato consented to the described sanctions and to the entry of findings that he circumvented his member firm's supervisory procedures and review process by submitting VA exchange applications directly to an insurance company to be processed without his firm's supervisory review. The findings stated that additionally, when Mastrodonato's firm denied two exchange requests, he failed to inform the firm that he had already submitted the material directly to the insurance company. Mastrodonato did not withdraw the applications from the company. The findings also stated that Mastrodonato knew that by submitting the requests directly to the insurance company, they would be processed without his firm's review or approval.

The suspension is in effect from May 21, 2012, through June 19, 2012. ([FINRA Case #2009019192801](#))

**Frederick Vincent McMenimen III (CRD #2112400, Registered Principal, Exeter, New Hampshire)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for six months.

In light of McMenimen's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, McMenimen consented to the described sanction and to the entry of findings that he informed his member firm's compliance officer that a customer complaint had been filed against him with a state insurance department; the compliance officer instructed McMenimen to notify him of any developments, but McMenimen failed to do so. The findings stated that McMenimen willfully failed to amend his Form U4 to disclose a material fact that he had entered into Consent Orders with a state Department of Insurance.

The suspension is in effect from April 16, 2012, through October 15, 2012. ([FINRA Case #2011026077701](#))

**Satish Mehta aka Sam Mehta (CRD #2504416, Registered Representative, Scarsdale, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Mehta consented to the described sanctions and to the entry of findings that he effected discretionary trades in customers' securities accounts. The findings stated that Mehta did not obtain the customers' written authorization or his member firm's written acceptance of the accounts as discretionary. The firm did not permit discretionary accounts of this nature.

The suspension was in effect from May 21, 2012, through June 4, 2012. ([FINRA Case #2010025711201](#))

**John Edward Mullins (CRD #1007176, Registered Representative, Margate, New Jersey) and Kathleen Maria Mullins (CRD #2790621, Registered Representative, Margate, New Jersey).** J. Mullins was barred from association with any FINRA member in any capacity, and K. Mullins was fined \$15,000, suspended from association with any FINRA member in any capacity for seven months and ordered to requalify by examination upon her return to the securities industry. The SEC sustained the findings in part and modified the sanctions FINRA imposed. The findings stated that J. Mullins converted customer funds and breached his fiduciary duty when he used a charitable foundation's debit card to make purchases for his own benefit. The findings also stated that the Mullinses failed to disclose their positions or nominal designations as trustees in the foundation's organizing documents on most of their member firm annual compliance forms for four years. The findings also included that the Mullinses accepted a \$100,000 loan from a customer without seeking or securing their member firm's approval and failed to disclose the loan on firm compliance questionnaires.

K. Mullins' suspension is in effect from April 23, 2012, through November 22, 2012. (FINRA Cases [#2007011177501](#)/[#2007009434501](#))

**Rita Elizabeth Murray (CRD #5181155, Registered Representative, Larchmont, New York)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the

findings, Murray consented to the described sanction and to the entry of findings that she failed to respond to a FINRA request for information concerning her involvement, if any, in preparing and submitting certain expense reimbursement forms to her former member firm. ([FINRA Case #2011029791101](#))

**James Stuart Nesbit (CRD #1330746, Registered Representative, Virginia Beach, Virginia)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that after FINRA barred a registered representative, some of his customer's accounts at the member firm were reassigned to Nesbit. The firm paid Nesbit more than \$69,000 in commissions, fees and overrides derived from securities transactions, including commissions on several VA exchanges. The payments included commissions that Nesbit received from the sale of securities to the barred representative's former customers, and overrides that Nesbit received from sales of securities by other registered representatives in his branch office. The findings stated that Nesbit paid \$65,500 of the commissions and overrides that he received from his firm to the barred representative by transferring the commissions he received from his firm to the account of a company he owned and controlled. Nesbit then wrote checks from that account payable to the barred individual's company. Nesbit, by directing commissions and overrides derived from securities transactions to a non-FINRA member that a FINRA-barred representative owned and controlled, made improper payments of commissions derived from securities transactions to an unregistered person and the person's unregistered entity. The findings also stated that by directing commissions and overrides derived from securities transactions to an entity the barred representative owned and controlled, Nesbit materially assisted him in circumventing the bar FINRA imposed. The findings also included that Nesbit failed to provide documents and information to FINRA, and failed to appear at an on-the-record interview FINRA requested. ([FINRA Case #2010021888201](#))

**Marty Edward Paul (CRD #2540039, Registered Supervisor, Gig Harbor, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Paul's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Paul consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm; Paul owned and operated real estate development companies that he did not disclose to his firm. Paul provided inaccurate information to his firm when he disclosed his outside business activities. The findings stated that Paul wrote that he was a passive owner of one company when he was actually an active owner, and wrote that he was a passive 50 percent owner of another firm when he actually owned 100 percent and was an active owner. Paul wrote that he was a passive partner in a third company when he was an active owner, and wrote he was a passive owner of a fourth company and that a customer was also an owner when Paul was an active owner and owned 100 percent of the company.

The findings also stated that Paul and one of his companies borrowed \$6,500,000 from a customer, secured by a deed of trust, to finance a commercial real estate project contrary to his firm's WSPs prohibiting a registered representative from borrowing money from a customer unless the customer was a member of the representative's immediate family or was regularly engaged in the business of lending money or providing credit to the general public, which the customer was not. The findings also included that in a compliance questionnaire, Paul inaccurately stated that he had never borrowed from, or lent money to, any clients (excluding immediate family members); in an email, Paul wrote that the customer was a non-partner investor in his company when he had actually made a loan to Paul and his company.

FINRA found that when firm representatives inquired whether he had borrowed money, Paul denied that he or his company had borrowed money and that the customer was an investor. FINRA also found that in an email, Paul wrote that his company owned the land for the project and that the customer was the owner of the improvements, which were completely separate, when the company actually owned both the land and the improvements and the customer had made the loan to finance the development and construction of the project.

The suspension is in effect from May 7, 2012, through May 6, 2013. ([FINRA Case #2010024106101](#))

**John Charles Pierce (CRD #363276, Registered Representative, Edmond, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Pierce consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts without obtaining each customer's written authorization and his member firm's acceptance of the accounts as discretionary. Pierce exercised discretion in one customer's accounts for approximately three years and exercised discretion in another customer's family accounts for approximately 12 years.

The suspension was in effect from May 7, 2012, through June 4, 2012. ([FINRA Case #2010024697701](#))

**Christopher Robert Ranni (CRD #1698428, Registered Principal, Monroe, New York)** was fined \$7,000 and suspended from association with any FINRA member in a supervisory capacity for eight months. The sanctions were based on findings that Ranni, as his member firm's CCO, failed to establish and maintain adequate WSPs. The findings stated that the WSPs provided in connection with a FINRA examination were substantively no different than the firm's WSPs two years earlier, which had been found to be materially deficient in connection with another FINRA examination and had been the subject of a Letter of Caution. To the extent there were differences, they were largely immaterial differences, such as page, font size and spacing differences. The deficiencies identified in the Letter

of Caution remained deficiencies in the WSPs two years later. The WSPs were deficient because Ranni failed to pay more than cursory attention to them when he became CCO and was still not sufficiently focused on them even when the examination was underway. The findings also stated that Ranni failed to enforce requirements set forth in the firm's WSPs with respect to private placements of securities exempt from registration. The findings also included that Ranni failed to establish, maintain and enforce written supervisory control procedures. The firm's WSPs did not contain supervisory control procedures. Ranni relied on the small firm exemption; however, the exemption does not relieve a firm from the requirement to have written supervisory control procedures.

The suspension is in effect from May 7, 2012, through January 6, 2013. ([FINRA Case #2008011724301](#))

**Anne Morton Rauch (CRD #2209844, Registered Principal, St. Louis, 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 Rauch'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, Rauch consented to the described sanctions and to the entry of findings that she willfully omitted to state a material fact on her Form U4 in a timely manner. The findings stated that Rauch avoided disclosing this fact to her firm for her Form U4 amendment, even though she spoke to her supervisor while under arrest to explain that she would not be at work that day. The findings also stated that Rauch electronically submitted to the firm her associate annual attestation, attesting that she was familiar and in compliance with the firm's procedures. The firm received information disclosing that Rauch had pled guilty and been convicted of a felony and had not yet reported it to the firm. The firm confronted Rauch about it and amended her Form U4.

The suspension is in effect from May 7, 2012, through November 6, 2012. ([FINRA Case #2010024653201](#))

**Gary Ryan Rhoades (CRD #2582675, Registered Representative, South Point, 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 eight months. The fine must be paid either immediately upon Rhoades'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, Rhoades consented to the described sanctions and to the entry of findings that he effected numerous securities transactions in a customer's account without authorization. The findings stated that Rhoades recommended an unsuitable concentration of a small number of stocks in the same three-month time period.

The suspension is in effect from April 16, 2012, through December 15, 2012. ([FINRA Case #2008014214701](#))

**Enrique Roy (CRD #5339904, Registered Representative, Miami Beach, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Roy failed to respond to requests from FINRA for information about an outside brokerage account at a member firm he had opened on a customer's behalf. The findings stated that FINRA dismissed the allegation that Roy failed to give his firm notice of an outside brokerage account. ([FINRA Case #2010023375101](#))

**Edward Antonio Salazar aka Ted Salazar (CRD #2338244, Registered Representative, Houston, Texas)** was fined \$30,000, suspended from association with any FINRA member in any capacity for 13 months and ordered to pay \$1.1 million, plus interest, as restitution, and \$77,000 in disgorgement of his commissions on the transactions. The monetary sanctions shall be due and payable if and when Salazar re-enters the securities industry. The sanctions were based on findings that Salazar marketed and sold bonded life settlements for a total of \$1.1 million without providing his firm prior written notice or seeking the firm's prior approval. Salazar received approximately \$77,000 in connection with the transactions. The customers paid \$550,000 for each investment, funding the purchases by surrendering the annuity they had previously purchased from Salazar. In doing so, the customers incurred \$40,000 in surrender charges. The findings stated that Salazar failed to conduct adequate due diligence of the life settlements or the company promoting and offering the investments. There were multiple red flags that would have put Salazar on notice of the extreme degree of risk associated with this investment if he had done the due diligence he should have done. The findings also stated that Salazar failed to develop a reasonable basis for recommending the bonded life settlements.

The suspension is in effect from April 16, 2012, through May 15, 2013. ([FINRA Case #2010022405601](#))

**Gene Marshall Simpson (CRD #424801, Registered Representative, La Habra, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for three months. In light of Simpson's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Simpson consented to the described sanction and to the entry of findings that he signed another registered representative's name to customer account documents, without the registered representative's knowledge or approval, to expedite the customers' paperwork when the representative was not in the office. The findings stated that Simpson accepted a check request for a customer's account that was not signed by the customer, but by the customer's relative, who was not an authorized signatory on the account, but was also a customer of the firm. Simpson allowed the customer's relative to sign a third-party check request authorizing the issuance of a \$12,000 check from the customer's account to the relative.

The suspension is in effect from May 7, 2012, through August 6, 2012. ([FINRA Case #2010022251702](#))

**Guy G. Sirois (CRD #5315247, Registered Supervisor, Ewing, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Sirois' 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, Sirois consented to the described sanctions and to the entry of findings that he engaged in a business activity with a law firm by drafting a will for an individual who was not a customer of his member firm. The findings stated that this activity was made outside the scope of Sirois' employment with his firm, and he received approximately \$200 in compensation. Prior to Sirois drafting the will, the firm had denied his request to practice law outside the scope of his employment. The firm's written procedures prohibited representatives from practicing law unless an exception was granted. The findings also stated that after the firm's denial, Sirois initiated an appeal to request an exception to those procedures so that he could practice law. Sirois proceeded to draft the will before receiving a decision on that appeal. Before responding to his appeal, the firm terminated Sirois for engaging in the business activity.

The suspension is in effect from May 7, 2012, through June 18, 2012. ([FINRA Case #2011028719601](#))

**Scott Douglas Stephenson (CRD #2057439, Registered Representative, Grants Pass, Oregon)** 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, Stephenson consented to the described sanction and to the entry of findings that he was a member of the board of directors for a non-profit entity and was appointed treasurer of a sporting event the entity sponsored. The findings stated that Stephenson received \$125 in cash for merchandise sales in connection with the sporting event and although he was required to deposit the cash in the entity's bank accounts, he kept the cash for himself. Stephenson wrote and subsequently cashed checks totaling \$5,300 from the entity's bank accounts, made payable to himself or to cash. Stephenson was not entitled to the \$125 cash or the \$5,300 in checks. The findings also stated that by misappropriating \$5,425 from an entity for which he served as director and treasurer, Stephenson failed to uphold high standards of commercial honor and just and equitable principles of trade. ([FINRA Case #2010025769101](#))

**Renee Piche VanAssche (CRD #2223218, Registered Principal, Harper Woods, Michigan)** 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 75 days. Without admitting or denying the findings, VanAssche consented to the described sanctions and to the entry of findings that at the direction of her supervisor, she took the LTC CE examination for a state and created an answer key for the examination. The findings stated that VanAssche then created a side-by-side list of answers for the state examination and



another state examination by writing the answers to the one state's LTC CE examination next to the answers on the other state's answer key so that she created a dual answer key for the states' examinations. The findings also stated that VanAssche requested and/or received answer keys for LTC CE examinations for several states and improperly distributed the dual answer key and an answer key for the LTC examination for another state to employees of her member firm and, at the direction of her supervisor, improperly distributed a state answer key to registered representatives outside of the firm. The findings also included that VanAssche misrepresented that she had a proctor present when she took the LTC CE examination for her state by entering into the company's website the name of someone who was not present at the time she was taking the examination.

The suspension is in effect from May 7, 2012, through July 20, 2012. ([FINRA Case #2009021029625](#))

**Thomas Lloyd Vieth (CRD #1586512, Registered Representative, De Pere, 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 60 days. The fine must be paid either immediately upon Vieth'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, Vieth consented to the described sanctions and to the entry of findings that he accepted loans totaling \$40,000 from a customer without his member firm's knowledge or approval. The findings stated that the first two loans were unsecured and the terms were not memorialized in writing; Vieth and the customer executed a promissory note for the third loan. The findings also stated that the firm's procedures expressly prohibited borrowing money from a customer unless the customer was a family member or a financial institution in the business of lending money.

The suspension is in effect from May 7, 2012, through July 5, 2012. ([FINRA Case #2010022526101](#))

**Henry Everette Walker Jr. (CRD #2823447, Registered Principal, Clanton, Alabama)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Walker consented to the described sanction and to the entry of findings that he created a plan to form a company that was incorporated as a full-service financial services firm for which he was the chairman and later the president and CEO. The firm purchased several entities, including 90 percent of his member firm and renamed it; and to finance the purchases, Walker directed the sale of promissory notes issued by his financial services firm which were neither registered pursuant to the Securities Act of 1933 nor exempt from registration. The findings stated that the firm, acting through Walker, failed to disclose numerous material facts. The findings also stated that Walker's firm ceased selling promissory notes and began a best efforts private offering of shares of cumulative non-

convertible preferred stock. A PPM was prepared at Walker's direction and was distributed to representatives. The findings also included that Walker presented the preferred stock offering at seminars, provided sales support to representatives and approved sales of the preferred stock as a registered principal. Walker also sold the preferred stock to at least one investor.

FINRA found that the PPM failed to disclose numerous material facts. More significantly, over the period when the preferred stock was offered to investors and the PPM was provided to investors, certain material events occurred; yet the PPM was not amended to reflect subsequent material events that were relevant to all sales. FINRA also found that Walker failed to provide material information to investors and caused his firm to omit material information to investors by selling and permitting its registered representatives to sell promissory notes in an unregistered private placement without adequately disclosing material information. Walker knowingly failed to disclose material facts to investors by permitting registered representatives to sell preferred stock through a PPM that failed to disclose material facts and failed to update the PPM when subsequent material events occurred. ([FINRA Case #2010020829802](#))

**Robert Crawford Wilson Jr. (CRD #4495219, Registered Representative, Newark, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Wilson failed to respond to FINRA requests for information and documents regarding his ownership and control of a tax preparation company and the possible misuse of funds he was required to remit to the Internal Revenue Service. ([FINRA Case #2010022641001](#))

**Justin Michael Witt (CRD #5946714, Associated Person, Dallas, Texas)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that he submitted an altered Series 7 written examination report to his member firm, falsely indicating he passed it. Witt knew, or should have known, that the score report he submitted to his firm was false and did not reflect his true, failing score on the examination. The findings stated that Witt failed to respond to FINRA requests for information. ([FINRA Case #2011029086401](#))

**Lawrence Todd Wood (CRD #2492124, Registered Representative, Newtown, Connecticut)** 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 45 days. The fine must be paid either immediately upon Wood'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, Wood consented to the described sanctions and to the entry of findings that he purchased shares of a security and a par-value foreign debt security, in an account belonging to a corporate entity customers owned, without the customers' knowledge, authorization or consent.

The suspension was in effect from April 16, 2012, through May 30, 2012. ([FINRA Case #2010023584101](#))

## Individual Fined

**Steven Wayne Arnold (CRD #2535488, Registered Principal, Novi, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Arnold consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts without contacting the customers and obtaining their written authorization. Arnold's member firm did not give him permission to exercise discretion in the accounts, and the accounts were not designated as discretionary accounts. ([FINRA Case #2008014843201](#))

## Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which has been appealed to or called for review by the NAC as of April 30, 2012. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Notices.

**Alan Jay Davidofsky (CRD #1389312, Registered Representative, Delray Beach, Florida)** was fined \$11,741.78, which represents disgorgement, and barred from association with any FINRA member in any capacity. The sanctions were based on findings that Davidofsky effected unauthorized transactions in a customer's account, controlled the customer's Individual Retirement Account (IRA) and made an excessive number of trades in the account, which was inconsistent with the customer's financial circumstances and investment objectives. The findings stated that Davidofsky implemented this high level of trading to benefit himself, not his customer. Davidofsky had lost valued accounts and was under ever-increasing financial pressure to increase his numbers to meet his member firm's expectations. The findings also stated that Davidofsky excessively traded the customer's account with scienter, thereby churning her account.

The decision has been appealed to the NAC, and the sanctions are not in effect pending the appeal. ([FINRA Case #2008015934801](#))

**Timothy Joseph Golonka (CRD #1792138, Registered Representative, Collegeville, Pennsylvania)** was fined \$7,500 and suspended from association with any FINRA member in any capacity for nine months. The fine shall be due and payable upon Golonka's return to the securities industry. The sanctions were based on findings that Golonka called insurance companies to obtain confidential information about policies customers of a FINRA member firm held, and falsely represented that the insured customers were participating in the calls. The findings stated that as a senior account executive for his

member firm's affiliated insurance company, Golonka evaluated life insurance policies held by customers of registered representatives at a number of firms to determine if they should be replaced by policies more appropriate to the customers' needs. The findings also stated that Golonka worked with registered representatives of a firm to review their clients' life insurance policies. In order to conduct the reviews, Golonka needed confidential information about the policies and asked the registered representatives to gather it. The registered representatives were unable to contact several of the clients, and therefore could not obtain the required information. The findings also included that Golonka then made four telephone calls to insurance company agents to obtain the information he needed. On three of those calls, Golonka stated that the insured customer was on the call. In reality, however, during each of those calls, one of the registered representatives impersonated the female policyholder and gave "permission" to the insurance company representative to provide Golonka with the information he asked for. As a result, the insurance agents gave Golonka information such as the policy's cost basis, base death benefit and other features of the insured's coverage. After one of those calls, Golonka knew he had been caught by one of the insurance agents who had overheard Golonka talking to that registered representative about the impersonations and about having another registered representative pose as a male policyholder. Despite this, Golonka then made a fourth call to one of the same insurance companies that he called previously so that he could obtain information about a male customer's insurance policy. By chance, Golonka reached the same insurance company agent who had caught him earlier. Nevertheless, Golonka told that same agent that he was calling with another policyholder on the phone to inquire about his policy, when in reality the other registered representative was party to the call.

FINRA found that one of the insurance companies subsequently sent a written complaint to Golonka's firm stating that one of its insured customers whose policy was the subject of a call did not know Golonka and had not authorized him to obtain information about her policy. Golonka's firm then investigated the matter and terminated him.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2009017439601](#))

**North Woodward Financial Corp. (CRD #104097, Birmingham, Michigan) and Douglas Allen Troszak (CRD #2219763, Registered Principal, Birmingham, Michigan).** The firm was expelled from FINRA membership and Troszak was barred from association with any FINRA member in any capacity. The sanctions were based on findings that the firm and Troszak failed to respond to FINRA requests for information and documents. The findings stated that the firm and Troszak failed to amend Troszak's Form U4 with material information about a Federal tax lien that was filed against him.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2010021303301](#))

## Complaints Filed

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

**Juan Alfredo Aguilar (CRD #5640727, Registered Representative, East Bernard, Texas)** was named as a respondent in a FINRA complaint alleging that he activated a dormant bank account a bank customer owned. The complaint alleges that Aguilar issued ATM cards to access the account, and used those cards to withdraw approximately \$14,544 from the account. The bank, an affiliate of Aguilar's member firm, received a complaint from the customer regarding the unauthorized issuance of ATM cards and funds missing from her account. The complaint also alleges that Aguilar admitted to reactivating the customer's account and withdrawing the funds. Aguilar was terminated from the bank and from the firm. The complaint further alleges that Aguilar failed to respond to FINRA requests for documents and information. ([FINRA Case #2011027593701](#))

**Teresa Jo Dorenkamp (CRD #4822410, Registered Representative, Mason City, Iowa)** was named as a respondent in a FINRA complaint alleging that she forged customer signatures on wire transfer authorization letters directing her member firm's clearing agent to wire transfer funds from customers' accounts into her and a relative's bank accounts; Dorenkamp converted approximately \$116,696.50 in this manner. The complaint alleges that Dorenkamp took customer checks written to the firm's clearing agent that were intended to be deposited into the customer's accounts and instead deposited the checks into her or her relative's accounts, converting approximately \$8,048.80 in this manner. The complaint also alleges that Dorenkamp forged a customer's signature and her supervisor's signature, and used a signature guarantee medallion stamp without authorization to complete a fraudulent authorization form sent to a family of funds that was an investment option for firm customers, which allowed her to link her bank account to the customer's fund account, and thus was able to transfer a total of approximately \$176,731.52 out of the account directly into her personal bank account. The complaint further alleges that Dorenkamp sent fraudulent authorization letters to the fund purportedly from her relative or her supervisor, directing that enclosed customer checks written to the fund with the intent to be deposited into customer accounts instead be deposited into her relative's fund accounts. This included checks written to the fund by individuals and numerous checks written by a corporate customer, which were to be disbursed by the fund as employer and employee contributions to employees' IRAs. In addition, the complaint alleges that Dorenkamp converted the funds from one check from the corporate customer that were not intended to be disbursed to employee IRAs. Funds transferred or deposited into her relative's or fund accounts were eventually transferred into Dorenkamp's bank

accounts and were spent on personal expenses. Moreover, the complaint alleges that by employing these schemes, Dorenkamp used customer funds for a purpose other than as directed by the customer and intended to permanently deprive customers of the use of their funds. Of the total amount, \$293,428.02 was converted from customers currently over the age of 65. Furthermore, the complaint alleges that Dorenkamp failed to appear for FINRA-requested testimony regarding her conversion, and falsification and forgery of documents. Dorenkamp's counsel informed FINRA staff that she would not agree to testify, which prevented FINRA from questioning her about her deceptive conduct. ([FINRA Case #2011029002401](#))

**Sean D. Fitzgerald (CRD #5465012, Registered Representative, Milford, Connecticut)** was named as a respondent in a FINRA complaint alleging that he misappropriated a total of \$51,873.75 from customers' bank accounts by issuing unauthorized ATM cards and using the cards to withdraw funds from the customers' accounts and to make purchases without the customers' authorization. The complaint alleges that Fitzgerald admitted his misappropriation of the customers' funds without permission or authority from the bank or the customer to issue ATM cards from the customers' account to himself or to withdraw the customers' funds for his own purposes. The complaint also alleges that the bank terminated Fitzgerald's employment and has since reimbursed the customers in full for the funds Fitzgerald misappropriated. The complaint further alleges that Fitzgerald failed to provide a written statement in response to FINRA requests for information. ([FINRA Case #2010024240901](#))

**Ronald Lenard Gilbert (CRD #2994005, Associated Person, Chicago, Illinois)** was named as a respondent in a FINRA complaint alleging that his member firm's CEO instructed Gilbert to close out all inactive accounts at the member firm and send the customers checks for the remaining balances. The complaint alleges that Gilbert converted funds that remained in the accounts by wiring funds from these accounts to his personal securities account. The complaint also alleges that in order to effect the wire transfers, he circumvented the firm principal approval requirement by using an identification number of a former firm principal that had not been deactivated by inputting the number into an electronic system, and thereby was able to initiate and approve the wire transfer requests by himself. The complaint further alleges that Gilbert forged signatures on IRA distribution forms to transfer funds into his personal securities account. In addition, the complaint alleges that Gilbert transferred \$5,764.82 from inactive customer accounts into his personal securities account and then into his personal bank account without authorization from the customers or his firm, and with no intention of returning the funds to the customers. ([FINRA Case #2011028237502](#))

**Douglas Edmond Inlay (CRD #4770488, Registered Principal, Sioux City, Iowa)** was named as a respondent in a FINRA complaint alleging that while working as an insurance agent for a property and casualty insurance company affiliated with his member firm, Inlay misappropriated \$160 from an insurance customer for his own purposes. The complaint alleges that Inlay provided the company with a falsely altered money order in order to conceal his misappropriation of the insurance customer's insurance payment. Inlay also made several false statements to the company to conceal the misappropriation. The complaint also alleges that Inlay provided an application that contained several false statements to the company in order to establish a homeowner's insurance policy for a customer because he knew that the customer's residence did not otherwise meet the company's insurability requirements. The complaint further alleges that Inlay failed to appear for FINRA on the record testimony. ([FINRA Case #2010023753901](#))

**David R. Newsom (CRD #4955430, Registered Representative, Kountze, Texas)** was named as a respondent in a FINRA complaint alleging that he converted more than \$400,000 from the accounts of several bank customers at his member firm's affiliate. The complaint alleges that in each instance, Newsom caused funds to be withdrawn by having cashier's checks drawn on their accounts and made payable to his personal accounts at other financial institutions. Newsom withdrew the funds from these customers' accounts, without any knowledge or permission from the customers. The complaint also alleges that Newsom caused letters to be signed and issued on bank letterhead to various entities verifying that a certain entity had a purported \$586 million line of credit at the bank for the purchase of petroleum products. The complaint further alleges that Newsom signed each letter as "David Newsom" or "David Newsom/Vice President of Investments" when he was not employed by the bank and did not have any authority to issue any correspondence on the bank's behalf. Newsom neither sought nor obtained approval to issue the correspondence. In addition, the complaint alleges that the letters were materially false because the entity did not have a bank line of credit, whatsoever. Moreover, the complaint alleges that Newsom failed to respond to FINRA requests for information and documents. ([FINRA Case #2011029091701](#))

**Glenn Andrew Schwarzkopf (CRD #2538703, Registered Representative, New York, New York)** was named as a respondent in a FINRA complaint alleging that he persuaded a customer to withdraw funds from a VA so that he could invest them for the customer elsewhere. The complaint alleges that the customer caused at least \$242,756.17 to be transferred to Schwarzkopf for him to invest the money for the customer. Schwarzkopf did not invest the \$242,756.17 as the customer expected, but used at least \$139,697.23 of the \$242,756.17 to pay his credit card bills. The customer did not transfer any money to Schwarzkopf as a loan or gift. The complaint also alleges that Schwarzkopf failed to respond to FINRA requests for information. ([FINRA Case #2011027214701](#))



---

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

**Centrade Securities Corp. (CRD #131914)**  
 Netanya, Israel  
 (April 19, 2012)  
 FINRA Case #2009016149901

---

**Firms Cancelled for Failure to Pay Outstanding Fees Pursuant to FINRA Rule 9553**

**Kaufman Bros., LP (CRD #37909)**  
 New York, New York  
 March 14, 2012

**Nexgen Capital Advisors, LLC (CRD #132855)**  
 Chicago, Illinois  
 (April 26, 2012)

---

**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.)

**A B Wong Capital LLC (CRD #124360)**  
 New York, New York  
 (April 9, 2012)

**Bluechip Securities, Inc. (CRD #45726)**  
 Houston, Texas  
 (April 9, 2012)

**Blue Moon Financial, LLC (CRD #123224)**  
 Denver, Colorado  
 (April 3, 2012)

**CCG Securities, LLC (CRD #127507)**  
 Santa Barbara, California  
 (April 9, 2012)

**Franklin Capital, Inc (CRD #18846)**  
 West Palm Beach, Florida  
 (April 9, 2012)

**Global Trading Group, Inc. (CRD #103927)**  
 Bronx, New York  
 (April 9, 2012)

**GoNow Securities, Inc. (CRD #104020)**  
 Los Angeles, California  
 (April 3, 2012 – May 25, 2012)

**John Carris Investments LLC (CRD #145767)**  
 New York, New York  
 (April 20, 2012 – April 20, 2012)

**Legend Merchant Group, Inc. (CRD #5155)**  
 New York, New York  
 (April 9, 2012)

**Peyton, Chandler & Sullivan, Inc. (CRD #113517)**  
 Rocklin, California  
 (April 9, 2012)

**Walton Johnson & Company (CRD #26448)**  
 Dallas, Texas  
 (April 3, 2012)

**Walton Johnson & Company (CRD #26448)**  
 Dallas, Texas  
 (April 9, 2012)

**WJB Capital Group, Inc. (CRD #37334)**  
 New York, New York  
 (April 9, 2012)

**WJB Capital Group, Inc. (CRD #37334)**  
 New York, New York  
 (April 3, 2012)

---

**Individuals Barred for Failure to Provide Information or Keep Information Current Pursuant to FINRA Rule 9552(h)**

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

**Felipe Arellano (CRD #5757952)**  
Little Elm, Texas  
(April 2, 2012)  
FINRA Case #2011027365801

**Michael Joseph Bresnahan (CRD #2353698)**  
Newton, Massachusetts  
(April 16, 2012)  
FINRA Case #2011027102201

**Nancy Yukping Ewell (CRD #2120319)**  
Rancho Cucamonga, California  
(April 30, 2012)  
FINRA Case #2011028280201

**John Millar Fife (CRD #2895184)**  
Chicago, Illinois  
(April 6, 2012)  
FINRA Case #2011029203701

**Pauline Neil Fife (CRD #5984779)**  
Chicago, Illinois  
(April 6, 2012)  
FINRA Case #2011029203701

**David Hugh Grant (CRD #5860497)**  
West Hartford, Connecticut  
(April 30, 2012)  
FINRA Case #2011029040001

**Diane Young Hilek (CRD #1573040)**  
Kennedale, Texas  
(April 2, 2012)  
FINRA Case #2011026665001

**Paul Sidney Lewis (CRD #1112147)**  
Houston, Texas  
(April 27, 2012)  
FINRA Case #2011029428801

**Roxanne Michelle Morrissey (CRD #5335151)**  
Newcastle, Oklahoma  
(April 2, 2012)  
FINRA Case #2011029324201

**Lenny Portes (CRD #5730913)**  
Flushing, New York  
(April 30, 2012)  
FINRA Case #2011030140401

**Jason Tran (CRD #5261787)**  
New York, New York  
(April 20, 2012)  
FINRA Case #2011029737401

**Jeffrey Woo (CRD #5118784)**  
Bayside, New York  
(April 30, 2012)  
FINRA Case #2011026519901

---

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

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

**Ron William Howell (CRD #2895047)**  
Anaheim, California  
(April 24, 2012)  
FINRA Case #2008013868501

**James Calvin Wylie Jr. (CRD #834405)**  
Ponte Vedra Beach, Florida  
(April 5, 2012)  
FINRA Case #2010024027601

---

**Individuals Suspended for Failure to Provide Information or Keep Information Current Pursuant to FINRA Rule 9552(d)**

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

**Naason Ahumada (CRD #5532259)**  
San Diego, California  
(April 23, 2012)  
FINRA Case #2011030617401

**Jacob Louis Burkhardt (CRD #5150473)**  
Independence, Missouri  
(April 30, 2012)  
FINRA Case #2011028978301

**Christopher Collins (CRD #2167964)**  
Southampton, New York  
(January 23, 2012 – April 4, 2012)  
FINRA Case #2011027608601

**Ji Hye Kim (CRD #5238543)**  
Flushing, New York  
(April 23, 2012)  
FINRA Case #2012030928001

**Joseph Thomas Morrissey (CRD #2005206)**  
Sea Isle, New Jersey  
(October 27, 2011 – April 30, 2012)  
FINRA Case #2011026832401

**Staci Dawn Sneddon (CRD #5960753)**  
Pocatello, Idaho  
(April 9, 2012)  
FINRA Case #2011029910501

**Adrian Julio Somarriba Alvarez aka Adrian Julio Somarriba (CRD #5549314)**  
Miami, Florida  
(April 2, 2012)  
FINRA Case #2011029386001

---

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

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

**Alicia Dawn Rasche aka Alicia Dawn Esarey (CRD #4746169)**  
Newburgh, Indiana  
(April 15, 2012 - April 24, 2012)  
FINRA Arbitration Case #09-05036

---

**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.)

**Felix E. Ajegbo aka Jerry Jones (CRD #5126308)**  
Los Angeles, California  
(April 4, 2012)  
FINRA Arbitration Case #10-02853

**Patricia Bonavito (CRD #1045195)**  
New York, New York  
(August 5, 2010 – April 10, 2012)  
FINRA Arbitration Case #09-04266

**Jason John Cooney (CRD #2187835)**  
Port Neches, Texas  
(September 8, 2010 – April 2, 2012)  
FINRA Arbitration Case #20100238497/  
ARB100051/09-03513

**Christopher Dean Duval (CRD #2805500)**  
Anthem, Arizona  
(April 25, 2012)  
FINRA Arbitration Case #11-00520

**Emanuel Richard Giglio (CRD #2457836)**  
Coronado, California  
(November 4, 2011 – March 20, 2012)  
FINRA Arbitration Case #20110294084/  
ARB110055/09-01802

**Jesse Gomez Jr. (CRD #2707056)**  
Fresno, California  
(May 21, 2009 – April 27, 2012)  
FINRA Arbitration Case #07-03481

**Gerard Chandler Gremillion (CRD #1816351)**  
Baton Rouge, Louisiana  
(April 25, 2012)  
FINRA Arbitration Case #11-00895

**Paul Gerard Hitchcock (CRD #2047398)**  
San Anselmo, California  
(April 25, 2012)  
FINRA Arbitration Case #10-01794

**Candice Joy Hutton (CRD #2733374)**  
Arvada, Colorado  
(April 25, 2012)  
FINRA Arbitration Case #11-02800

**Charles William Kopp III (CRD #2882188)**  
Wallingford, Connecticut  
(April 4, 2012)  
FINRA Arbitration Case #11-00457

**Nathan J. Lorbietzki (CRD #2904494)**  
Las Vegas, Nevada  
(April 25, 2012)  
FINRA Arbitration Case #10-00264

**Scott Douglas Pionk (CRD #2056512)**  
Clinton Township, Michigan  
(April 25, 2012)  
FINRA Arbitration Case #10-02802

**Jeffrey Lee Roache (CRD #4396021)**  
Kokomo, Indiana  
(April 4, 2012)  
FINRA Arbitration Case #11-02959

**Anthony John Salino (CRD #2162704)**  
New Fairfield, Connecticut  
(April 19, 2012)  
FINRA Arbitration Case #10-00365

**Anthony John Salino (CRD #2162704)**  
New Fairfield, Connecticut  
(April 19, 2012)  
FINRA Arbitration Case #10-00417

**Robert Paul Shigley (CRD #1678843)**  
Cary, North Carolina  
(August 9, 2011 – April 18, 2012)  
FINRA Arbitration Case #10-02651

**Cathy Ann Thornock (CRD #2694533)**  
Higley, Arizona  
(April 25, 2012)  
FINRA Arbitration Case #11-00520

**Russell Davis Thornock (CRD #446386)**  
Gilbert, Arizona  
(April 25, 2012)  
FINRA Arbitration Case #11-00520

**David Keith Wilsman (CRD #2910307)**  
Palos Park, Illinois  
(April 4, 2012)  
FINRA Arbitration Case #10-05454

## **FINRA Hearing Panel Fines David Lerner Associates \$2.3 Million for Selling Municipal Bonds, CMOs to Retail Customers at Unfair Prices, and for Supervisory Violations**

### **Restitution Provided to Customers; Firm's Head Trader Fined and Suspended**

A FINRA hearing panel ruled that Long Island-based David Lerner Associates, Inc. (DLA) charged excessive markups on municipal bond and collateralized mortgage obligation (CMO) transactions over a two-year period, causing the firm's retail customers to pay unfairly high prices and receive lower yields than they otherwise would have received. The panel fined DLA \$2.3 million for the markup and related supervisory violations, and ordered the firm to pay restitution of more than \$1.4 million, plus interest, to affected customers. The panel also fined its head trader William Mason \$200,000 and suspended him for six months from the securities industry. The ruling resolves charges brought by FINRA's Department of Enforcement in May 2010.

The panel found that from January 2005 through January 2007, DLA and Mason charged retail customers excessive markups in more than 1,500 municipal bond transactions and charged excessive markups in more than 1,700 CMO transactions from January 2005 through August 2007. FINRA rules require that the amount of a markup must be fair and reasonable, taking into account all relevant factors and circumstances, including the type of security involved, the availability of the security in the market and the amount of money involved in a transaction.

The hearing panel decision notes that DLA's municipal bond and CMO trades reflected a pattern of intentional excessive markups. The municipal bonds and CMOs in the transactions were all rated investment grade or above, and were readily available in the market at significantly lower prices than DLA charged.

The panel noted that DLA charged markups on the municipal bonds ranging from 3.01 percent to 5.78 percent and charged markups on the CMOs ranging from 4.02 percent to 12.39 percent. Regardless of whether a DLA customer bought as much as \$225,000 or as little as \$8,000 of a CMO, the price was marked up "without consideration for the amount of money involved in the transaction." The hearing panel concluded that as a result of the unfair markups, the customers received lower yields than they would have received if the markups had been fair and reasonable.

The panel also found that DLA's supervisory system for its municipal bonds and CMOs was inadequate on several levels. DLA failed to establish and maintain adequate procedures to monitor the fairness of pricing for municipal bonds and CMOs, and failed to have adequate procedures in place to ensure that it recorded the time that the municipal bond orders were received from customers. DLA also failed to record the order receipt time of municipal order tickets.

In determining the sanctions, the panel took into consideration DLA's relevant disciplinary history. Despite having received a Letter of Caution raising FINRA's concerns about DLA's markup practices after a 2004 exam, and after having received a Wells Notices concerning the matter in July 2009, DLA continued its unfair pricing practice. The panel's decision notes that "in keeping with their unwillingness to accept responsibility, DLA has not taken any corrective measures to improve their fixed income markups policies and practices."

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal.

### **Goldman, Sachs & Co. Fined \$22 Million for Supervisory Failures Relating to Trading and Equity Research**

FINRA has fined Goldman, Sachs & Co. \$22 million for failing to supervise equity research analyst communications with traders and clients and for failing to adequately monitor trading in advance of published research changes to detect and prevent possible information breaches by its research analysts. The Securities and Exchange Commission (SEC) today announced a related settlement with Goldman. Pursuant to the settlements, Goldman will pay \$11 million each to FINRA and the SEC.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Goldman's trading huddles created an environment of heightened risk in which material non-public information concerning analysts' published research could be disclosed to its clients. In addition, the firm did not have an adequate system in place to monitor client trading in advance of changes in its published research."

In 2006, Goldman established a business process known as "trading huddles" to allow research analysts to meet on a weekly basis to share trading ideas with the firm's traders, who interfaced with clients, and, on occasion, equity salespersons. Analysts would also discuss specific securities during trading huddles while they were considering changing the published research rating or the conviction list status of the security. Clients were not restricted from participating directly in the trading huddles and had access to the huddle information through research analysts' calls to certain of the firm's high priority clients. These calls included discussions of the analysts' "most interesting and actionable ideas."

Trading huddles created the significant risk that analysts would disclose material non-public information, including, among other things, previews of ratings changes or changes to conviction list status. Despite this risk, Goldman did not have adequate controls in place to monitor communications in trading huddles and by analysts after the huddles.

Goldman did not adequately review discussions in the trading huddles to determine whether an equity research analyst may have previewed an upcoming ratings change. For example, an analyst said of a particular company in a trading huddle in 2008 that "we

expect companies with consumer and small business exposure to be under pressure in the current environment, including [the company].” The next day, the analyst sought and received approval to downgrade the company from “neutral” to “sell,” and to add the stock to Goldman’s conviction sell list. Goldman published an equity research report making these changes that same day.

Goldman also failed to establish an adequate system to monitor for possible trading in advance of research rating or conviction list changes in employee or proprietary trading, institutional customer, or market-making and client-facilitation accounts. Accordingly, Goldman failed to identify and adequately investigate increased trading in proprietary accounts in advance of the addition of securities to the firm’s conviction list, certain transactions effected in an account in advance of changes in published research that warranted review based on their size or profitability and/or atypical trading for that account, and certain spikes in trading volume that immediately preceded the addition of stocks to the firm’s conviction list.

In concluding this settlement, Goldman neither admitted nor denied the charges, but consented to the entry of the SEC’s and FINRA’s findings and admitted to certain facts that were part of a prior settlement with the state of Massachusetts.

### **FINRA Hearing Officer Expels Pinnacle Partners Financial Corp. and Bars President for Fraud**

A FINRA hearing officer has expelled Pinnacle Partners Financial, Corp., a broker-dealer based in San Antonio, TX, and barred its President, Brian Alfaro, for fraudulent sales of oil and gas private placements and unregistered securities. In addition, Brian Alfaro was found to have used customer funds for personal and business expenses. As restitution, Pinnacle and Alfaro are ordered to offer rescission to investors who were sold fraudulent offerings and refund all sales commissions to those customers who do not request rescission.

On the day Alfaro and Pinnacle Partners were to appear before the hearing panel, Alfaro decided not to attend the hearing. As a result, the hearing officer issued a default decision.

The hearing officer found that from August 2008 to March 2011, Alfaro and Pinnacle operated a boiler room in which approximately 10 brokers placed thousands of cold calls on a weekly basis to solicit investments in oil and gas drilling joint ventures Alfaro owned or controlled. Alfaro and Pinnacle raised over \$10 million from more than 100 investors, and that Alfaro diverted some of the customer funds for unrelated business and personal expenses.

The hearing officer also found that Pinnacle and Alfaro included numerous misrepresentations and omissions in the investment summaries for 11 private placement offerings, including grossly inflated natural gas prices, projected natural gas reserves,



estimated gross returns and estimated monthly cash flows. Pinnacle and Alfaro deliberately attempted to mislead investors by deleting material, unfavorable information from well operator reports and providing investors with maps that omitted numerous dry, plugged and abandoned wells near their projected drilling sites. In addition, Pinnacle and Alfaro distributed an offering document claiming that a previous venture had distributed more than \$14 million to its investors when the actual distribution was less than \$1.5 million.

The hearing officer decision also notes that from January 2009 to March 2011, Alfaro misused customer funds entrusted to him with the belief that the funds would be used for drilling and production in the wells in which their ventures invested. The funds were used for Alfaro's personal expenditures and for business purposes that were not related to the purposes of the customers' investments. When projects failed or were failing, Alfaro concealed his misuse of customers' funds by persuading them to transfer their investment to his other oil and gas ventures. In one instance, Alfaro collected more than \$500,000 in subscription costs for a well that was never drilled, and used those funds for unrelated personal and business expenses.

In April 2011, FINRA had suspended indefinitely Pinnacle and Alfaro for failure to comply with a FINRA Temporary Cease and Desist Order prohibiting their fraudulent misrepresentations. The suspension resulted from FINRA's Notice of Suspension, which alleged that Pinnacle and Alfaro had continued to make fraudulent oral and written misrepresentations and omissions in connection with their offer and sale of certain oil and gas joint interests, and had otherwise failed to comply with the terms of the Temporary Order FINRA issued on January 21, 2011.