

# Disciplinary and Other FINRA Actions

## Firms Fined, Individuals Sanctioned

VFG Securities, Inc. ([CRD® #15121](#), Culver City, California) and Jason Bryce Vanclef ([CRD #5096529](#), San Luis Obispo, California) submitted an Offer of Settlement in which the firm was censured and fined \$50,000, of which \$10,000 is joint and several with Vanclef. Vanclef was also suspended from association with any FINRA® member in any capacity for 10 business days. Without admitting or denying the allegations, the firm and Vanclef consented to the sanctions and to the entry of findings that they distributed, and listed for sale online, Vanclef's self-published book, which contained false, exaggerated, unwarranted or misleading statements, and omitted material facts or qualifications where the omission caused the communication to be misleading. The findings stated that the firm and Vanclef provided customers with misleading personalized recommendation spreadsheets that contained false, exaggerated, unwarranted or misleading statements, and included improper projections of investment performance. The findings also stated that the firm failed to have a registered principal approve Vanclef's book prior to its first use, and failed to submit it to FINRA for review. The findings also included that the firm's supervisory systems were deficient in two respects. First, the firm failed to follow its written supervisory procedures (WSPs) that required a designated supervisor to review consolidated investment reports provided to customers. Second, the firm did not have any supervisory system, including written procedures, to review for high concentration levels in illiquid alternative investments, including non-traded direct participation programs and non-traded real estate investment trusts, in customer accounts.

The suspension was in effect from December 19, 2016, through January 3, 2017. ([FINRA Case #2013038283001](#))

## Firms Fined

Advisors Clearing Network, Inc. ([CRD #37466](#), Pasadena, California) submitted a Letter of Acceptance, Waiver and Consent (AWC) in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to deliver quarterly account statements to each of the firm's retirement plan customers as a result of technology and data transmission issues encountered between the firm's recordkeeping affiliate and an outside vendor. The findings stated that the firm never obtained the written consent of its retirement plan customers to suspend delivery of account statements, and never advised the retirement plan customers that the quarterly account statements had not and would not be delivered while it resolved the technical difficulties it experienced.

## Reported for January 2017

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

The findings also stated that the firm failed to establish, maintain and enforce an adequate supervisory system, including WSPs, for the delivery of quarterly account statements. The firm did not have a supervisory system or WSPs regarding the delivery of quarterly account statements to retirement plan customers until March 2015, when the firm assigned responsibility for ensuring the firm's delivery of quarterly account statements to a registered principal, and subsequently amended its WSPs and compliance manual to reflect the new supervisory processes implemented to ensure its compliance with NASD Rule 2340. ([FINRA Case #2015046823201](#))

**Aperture, LLC dba OptionsHouse fka tradeMONSTER** ([CRD #145562](#), Chicago, Illinois) submitted an AWC in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that very shortly after entering an erroneous order, a firm customer realized his error and contacted the firm within the time permitted under the relevant exchange's rules to request a review and bust of his trade due to obvious error. The findings stated that the firm failed to timely contact that exchange about the customer's request. As a result, the customer's trade was not busted. The inability to bust the trade led to a loss for the customer that was ultimately settled between the firm and the customer. In response to the customer's complaint in connection with the firm's handling of this transaction, FINRA's examination of the firm revealed that the firm did not have adequate systems and procedures, including WSPs, to handle customer bust requests until more than three years after the customer contacted the firm. The findings also stated that the firm failed to maintain a reasonable supervisory system, including WSPs, concerning the handling of customer bust and/or adjust requests. ([FINRA Case #2013038121501](#))

**Barclays Capital Inc.** ([CRD #19714](#), New York, New York) submitted an AWC in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to report transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible securitized products to TRACE within the time required by FINRA Rule 6730(a). The findings stated that the firm failed to report the correct contra-party's identifier in transactions in TRACE-eligible agency debt securities to TRACE, and failed to report the correct market identifier in transactions in TRACE-eligible agency debt securities to TRACE. ([FINRA Case #2015046503801](#))

**Blaylock Beal Van, LLC** ([CRD #145317](#), New York, New York) submitted an AWC in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it filed quarterly Forms G-37 with the Municipal Securities Rulemaking Board (MSRB) that omitted required information about the municipal issuers with which the firm had engaged in municipal securities business during the prior quarter. ([FINRA Case #2015043759501](#))

**Capital One Investing, LLC** ([CRD #45744](#), Seattle, Washington) submitted an AWC in which the firm was censured, fined \$500,000, and required to review its supervisory systems and procedures regarding recordkeeping and the accuracy of information displayed to

customers to ensure that current systems and procedures are reasonably designed to achieve compliance with all securities laws and regulations, including Rule 17a-3(a)(17) under the Securities Exchange Act of 1934 (Exchange Act) and FINRA Rules 2010, 2210(d)(1)(A) and 4511. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it collected suitability information and made suitability determinations for approximately 730,000 customers who used an online tool provided by the firm. The findings stated that the firm failed to send and create a record that it sent certain account information to these customers within 30 days of opening the accounts, and to approximately 650,000 of these customers at 36-month intervals after the accounts were opened.

The findings also stated that in certain instances, the firm provided inaccurate historical weighted-average performance results to customers who used another online tool provided by the firm. The findings also included that the firm failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with Securities and Exchange Commission (SEC) and FINRA recordkeeping rules, and FINRA advertising rules. ([FINRA Case #2013039465901](#))

**Citigroup Global Markets, Inc. ([CRD #7059](#), New York, New York)** submitted an AWC in which the firm was censured and fined \$300,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it recorded 203,653 short sale executions on its books and records as long sales, submitted inaccurate order origination codes and account type codes to the Order Audit Trail System (OATS™) for approximately 2,775,338 orders, and submitted New Order Reports instead of Desk Reports to OATS for approximately 2,742,362 orders. The findings stated that the firm reported 30 inaccurate allocation times in the execution field of trade reports for step-out transactions reported to the FINRA/Nasdaq Trade Reporting Facility® (FNTRF). This issue dates back to approximately May 1998 and continued through November 2014, and impacted approximately 1,000 step-out transactions per day. The firm accepted customer orders for execution in the pre-market session or post-market session without disclosing to such customers that extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk.

The findings also stated that the firm made available reports on covered orders in national market system securities that one of the firm's alternative trading systems (ATSs) received for execution. The reports for that ATS incorrectly included information for approximately 52,506 orders that were routed to another destination for execution. The firm also made available reports on covered orders in national market system securities that one of the firm's ATSs received for execution that incorrectly included "not held" orders that were ultimately routed to external destinations for execution. The findings also included that the firm submitted approximately 4.3 million orders to OATS with inaccurate special handling instructions of "go along" or "over the day." The firm made publicly available reports on its

routing of non-directed orders in covered securities which included incomplete information as to a material aspect of the firm's relationship with one affiliated venue to which it routed large percentages of its total non-directed orders. ([FINRA Case #2013035823501](#))

**Cross Point Capital LLC** ([CRD #136223](#), Princeton, New Jersey) submitted an AWC in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it inaccurately reported municipal securities transactions to the MSRB's Real-Time Transaction Reporting System (RTRS). The findings stated that for each transaction, the firm incorrectly reported that it had executed the transactions in an agency rather than a principal capacity. The findings also stated that the firm's WSPs required a "periodic review of real time trade reporting" but the firm did not conduct any such review. ([FINRA Case #2016047671801](#))

**Davenport & Company LLC** ([CRD #1588](#), Richmond, Virginia) submitted an AWC in which the firm was censured, fined \$15,000, and required to revise its WSPs. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to OATS. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain applicable securities laws and regulations, and/or FINRA rules. The firm's WSPs failed to provide for one or more of the minimum requirements for adequate WSPs regarding OATS reporting. ([FINRA Case #2016049965401](#))

**Deutsche Bank Securities Inc.** ([CRD #2525](#), New York, New York) submitted an AWC in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that in 204 instances, the firm improperly reported information to the RTRS that it was not required to report. The findings stated that the firm over-reported 204 purchase and sale transactions effected in municipal securities to the RTRS when such transactions are non-reportable to the MSRB. ([FINRA Case #2015046454601](#))

**D.H. Hill Securities, LLP** ([CRD #41528](#), Kingwood, Texas) submitted an AWC in which the firm was censured, fined \$30,000 and required to retain, within 60 days of the date of the Notice of Acceptance of the AWC, an independent consultant, not unacceptable to FINRA, to conduct a comprehensive review of the adequacy of firm's policies, systems and procedures (written and otherwise), and training relating to participation as dealer manager or managing underwriter in securities offerings. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that when it replaced a prior dealer manager of a real estate investment trust (REIT) offering, the firm failed to seek or obtain authorization from FINRA to proceed with the offering. The findings stated that instead, the firm improperly relied on a prior "no objections" opinion issued to the predecessor manager, although the firm was not a party to the terms and arrangements approved by that opinion. Moreover, the "no objections" notification to the predecessor dealer manager specifically required that any amendments to the agreement

be filed with FINRA. The findings also stated that the firm failed to comply with the requirements of FINRA Rule 5110 by not promptly filing required documents when the REIT initiated a follow-on offering. The REIT filed a Form S-11 for the follow-on offering to the initial offering, which identified the firm as the dealer manager for the offering and indicated that the firm was sent a copy of the Form S-11. Although the FINRA rule requires the filing of certain materials with FINRA within one business day of the submission of certain filings to the SEC, the firm failed to make any filings with FINRA until approximately six months later.

The findings also included that the firm's WSPs did not include an adequate system to monitor for and address the accumulation of excessive underwriting compensation. In addition, the firm's WSPs did not designate any particular individual to oversee the firm's compliance with underwriting compensation or expense limits. As a result of this omission, the firm was unable to provide an accurate accounting of its underwriting compensation on a timely basis. The firm relied on inaccurate information reported by other parties to quantify the dealer manager fees it received, which caused it to report inaccurate information in its response to FINRA. The firm also failed to have a system in place to allocate overhead costs to specific offerings in which it participated in order to calculate underwriting compensation. The firm's WSPs failed to include provisions for obtaining a "no objections" opinion from FINRA when it acts as the dealer manager or lead placement agent in a public offering. The firm did not have adequate procedures for fulfilling the responsibilities of a dealer manager of a public offering. Although they recited the compensation limits of the applicable FINRA rule, the procedures failed to establish an adequate system by which the firm would monitor for and address the accumulation of excessive compensation. The procedures did not contain a description of a reasonable process for how the firm would monitor the receipt and payment of underwriting compensation or other expenses of the offering, and did not designate any particular individual to oversee the firm's compliance with these limits. In addition, they did not include adequate procedures addressing or assigning responsibility for how the firm would comply with the filing requirements under the applicable FINRA rule. ([FINRA Case #2014040082301](#))

**Dougherty & Company LLC** ([CRD #7477](#), Minneapolis, Minnesota) submitted an AWC in which the firm was censured, fined \$140,000 and required to pay \$78,910 in restitution to a customer. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that for more than four years, it did not adequately supervise a representative who initiated hundreds of trades for two elderly customers without contacting them, and unsuitably recommended dozens of transactions to those customers. The findings stated that the firm assigned the primary responsibility for supervising the representative's trading activity to a supervisor who was also responsible for supervising numerous other representatives and handling his own customers' accounts. The supervisor's supervision of the representative was not subject to adequate oversight or specific direction from the firm. Instead, the firm relied on the supervisor's discretion and judgment, which he did not exercise appropriately.

The findings also stated that the firm did not have supervisory resources that were reasonably designed to detect the representative's misconduct. While the supervisor received daily trade blotters and certain monthly exception reports, the firm did not provide exception reports addressing short-term trading or margin usage to the supervisor. Additionally, the firm's exception reports addressing trading by elderly customers excluded accounts in the name of a trust, regardless of the age of the settlor or trustee, meaning that the representative's trading activity in two of the accounts at issue did not appear on those exception reports. The findings also included that the firm failed to respond appropriately to warning signs about the representative's business, such as a dramatic increase in his commissions without a commensurate change in the number of accounts that he handled or the type of products that he sold. The firm's system of supervision was not reasonably designed under the circumstances to prevent violations of securities laws and rules, including rules governing trading without customers' approval and unsuitable recommendations. ([FINRA Case #2015047008701](#))

**EBH Securities, Inc.** ([CRD #36592](#), Indianapolis, Indiana) submitted an AWC in which the firm was censured and fined \$5,000. A lower fine was imposed after considering, among other things, the firm's revenue and financial resources. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to maintain its minimum net capital of not less than \$5,000 while continuing to conduct its securities business, and failed to provide notice of its net capital deficiency. The findings stated that the firm failed to maintain and keep current an accurate trial balance and general ledger by failing to book expenses and liabilities attributable to the firm pursuant to an expense-sharing arrangement with two companies under common control with its president. These failures also resulted in the firm maintaining inaccurate monthly net capital records. The firm also failed to file accurate Financial and Operational Combined Uniform Single (FOCUS) reports. ([FINRA Case #2015043646601](#))

**EK Riley Investments, LLC** ([CRD #121003](#), Seattle, Washington) submitted an AWC in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it effected municipal bond transactions as part of an issue of municipal bonds in accounts belonging to customers that were in amounts below the offering's stated \$25,000 minimum denomination. The findings stated that the firm's WSPs with respect to minimum denominations followed the requirements of MSRB Rule G-15(f). None of the municipal bond transactions fell within the exceptions to executing transactions below the minimum denomination, and the firm failed to enforce its WSPs when it effected the sales. The firm has contacted all customers at issue and offered to liquidate the bonds that the customers purchased in amounts below the minimum denomination. ([FINRA Case #2015043332501](#))

**First American Securities, Inc.** ([CRD #35841](#), Orrville, Ohio) submitted an AWC in which the firm was censured, fined \$150,000, and ordered to disgorge commissions of \$190,000, plus interest. Without admitting or denying the findings, the firm consented to the sanctions

and to the entry of findings that it engaged in two separate private placements that were rife with supervisory and substantive violations, including inadequate due diligence, failure to have a reasonable basis to recommend the private placements to customers, investor offering documents that contained misleading and unwarranted statements, omissions of material information and made material misrepresentations, failure to supervise one of the offerings as a private securities transaction, failure to file offering documents for one of the offerings, and failure to supervise one offering to ensure compliance with the accredited investor requirements of Section 5 of the Securities Act of 1933 (Securities Act). The findings stated that the firm failed to follow its WSPs relating to due diligence requirements for private placements. In addition to supervisory deficiencies, the inadequate due diligence caused the firm to lack a reasonable basis to recommend one of the offerings to customers. The firm distributed offering documents to investors which negligently made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and made statements which were not fair and balanced, and were misleading, exaggerated and unwarranted. The firm acted in contravention of Section 17(a)(2) of the Securities Act. The firm failed to establish, maintain and enforce a supervisory system or written procedures to ensure compliance with the Rule 506 of Regulation D safe harbor for private offerings, and failed to enforce its related WSPs.

The findings also stated that the firm, through its chief compliance officer (CCO), approved the firm president's request to participate in an offering as an outside business activity, despite the obvious indications that his participation in the offering constituted outside securities activities for compensation subject to NASD Rule 3040. The firm failed to adhere to the requirements of its WSPs that outside business activity requests be evaluated to determine whether the activity should more properly be considered outside securities activity, and also failed to adhere to its procedures applicable to private securities transactions. In addition, these transactions were not in the firm's books, and records and the firm did not supervise the activity. The findings also included that with respect to one of the offerings, the firm failed to submit a copy of the offering document, or notify FINRA that no offering documents were used. FINRA found that the firm conducted a securities business while failing to maintain required minimum net capital, prepared inaccurate net capital computations, and general ledgers and trial balances, and prepared and filed inaccurate FOCUS reports. ([FINRA Case #2015046056405](#))

**1st Discount Brokerage, Inc. (CRD #39164, Lake Worth, Florida)** submitted an AWC in which the firm was censured, fined \$50,000 and required to pay \$39,060.18, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to establish, maintain, and enforce a reasonably-designed supervisory system and WSPs regarding the sales of leveraged, inverse and inverse-leveraged exchange-traded funds (non-traditional ETFs). The findings stated that the firm did not have WSPs addressing the suitability and supervision of non-traditional ETFs. The firm's WSPs did not provide any guidance to supervisors to assist them



in reviewing non-traditional ETF transactions in light of the unique features and risks of these products, including the daily reset and leverage features. In addition, the firm did not have a system that enabled principals to readily identify non-traditional ETF transactions for review. The firm failed to provide non-traditional ETF training to representatives and their supervisors, and did not have a supervisory system, such as the use of exception reports, to monitor holding periods for non-traditional ETFs.

The findings also stated that the firm allowed representatives to recommend non-traditional ETFs without performing reasonable diligence to understand the risks and features associated with them, and that were unsuitable for certain customers based on their age, investment objectives and financial situation. The firm, through its registered representatives, failed to perform an adequate reasonable basis suitability analysis of non-traditional ETFs to understand the risks and features associated with non-traditional ETFs before offering them for sale to retail customers. The firm also failed to re-evaluate the suitability of these products, notwithstanding the risks of non-traditional ETFs such as the risks associated with a daily reset, leverage and compounding. In addition, the firm's representatives solicited and effected non-traditional ETF purchases that were unsuitable for specific customers. Even though non-traditional ETFs are complex and speculative securities, certain representatives recommended these products to customers with conservative investment objectives, some of whom were elderly. Moreover, some of these customers held non-traditional ETF positions for extended periods of time. ([FINRA Case #2013038328301](#))

**First Financial Equity Corporation (CRD #16507, Scottsdale, Arizona)** submitted an AWC in which the firm was censured; fined \$35,000; ordered to pay \$15,839.39, plus interest, in restitution to customers; and required to revise its WSPs. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and FINRA rules, concerning best execution in the case of fixed income securities. ([FINRA Case #2012033942501](#))

**First Southern Securities, LLC. (CRD #153133, Alpharetta, Georgia)** submitted an AWC in which the firm was censured, fined \$25,000, and must offer rescission to the customers who executed transactions at either the original purchase price or the current fair market value, whichever is higher. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it effected municipal bond transactions in amounts below the minimum denomination set for the bonds being sold. The findings stated that the firm failed to disclose to customers at trade time that the transaction amount being effected was below the minimum denomination. The findings also stated



that the firm failed to establish and maintain a supervisory system; failed to establish, maintain and enforce WSPs prohibiting the sale of municipal securities to customers below the minimum denomination; and failed to have any systems or controls in place to monitor and prohibit sales below the minimum denomination. ([FINRA Case #2015043664501](#))

**Fogel Neale Securities, LLC** ([CRD #153152](#), New York, New York) submitted an AWC in which the firm was censured and fined \$2,500. A lower fine was imposed after considering, among other things, the firm's revenue and financial resources. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to employ two registered general securities principals while operating its securities business, and did not obtain a waiver from FINRA with respect to this requirement. ([FINRA Case #2015043369301](#))

**Global Emerging Capital Group, LLC fka Radnor Research & Trading LLC** ([CRD #130120](#), New York, New York) submitted an AWC in which the firm was censured and fined \$18,000. A lower fine was imposed after considering, among other things, the firm's revenue and financial resources. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that in connection with its participation as placement agent for a private placement offering that closed, the firm failed to promptly return funds to those investors who were unable to invest in the offering after it reached the stated maximum offering amount, as required by the terms in the private placement's offering memorandum. The findings stated that the private placement offering was a best-efforts private placement offering seeking to raise a minimum of \$2 million and a maximum of \$10 million to raise capital for the issuer. The offering memorandum provided that if any investor subscriptions were not accepted as part of the offering, the investor's funds would be returned within 15 days. However, when this offering closed, the firm did not promptly return the \$2 million in excess funds that were not accepted as part of the offering to its customers within the period set out in the offering memorandum, but instead allowed the funds to continue to be held in escrow. Additionally, the firm participated as placement agent in a follow-up offering. Each of the investors whose funds were being held in escrow following the close of the first offering participated in the follow-up offering, and the funds held in escrow were transferred to the issuer of the follow-up offering following the close of that offering. ([FINRA Case #2014038913201](#))

**Hilltop Securities Inc.** ([CRD #6220](#), Dallas, Texas) submitted an AWC in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that for each of the four calendar quarters of 2015, it made publicly available a report on its routing of non-directed orders in covered securities during those quarters. The findings stated that in these reports, the firm failed to disclose the material aspects of its relationship with its significant execution venues as it pertains to payment for order flow arrangements. The firm is required to describe the material terms of the arrangements, such as any amounts per share or per order that the firm receives. ([FINRA Case #2015044525401](#))

**J.P. Morgan Securities LLC** ([CRD #79](#), New York, New York) submitted an AWC in which the firm was censured, fined \$500,000 and required to certify to FINRA, within 90 days of the issuance of the AWC, that it has adopted and implemented written supervisory policies and procedures reasonably designed to supervise the execution and approval of powers of attorney (POAs) for private bank customer accounts submitted by non-U.S. resident customers. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to adequately supervise the execution and approval of POAs for its private bank customer accounts submitted to the firm by non-U.S. resident customers. The findings stated that the firm failed to detect and investigate “red flags” and/or other irregularities in hundreds of these POAs, including instances where the POAs lacked information required by the firm’s procedures, such as certain dates and signatures. The firm further failed to detect and prevent the practice by some of its representatives and associates of signing the POA forms as witnesses, despite not having actually witnessed the signatures.

The findings also stated that once a POA was executed, it was submitted to the private bank’s account opening group (AOG) for review, including whether the POA had been executed according to the firm’s procedures. The AOG’s review included checking to see whether the POAs were properly dated, witnessed and notarized, as applicable. Two account-opening specialists reviewed each POA. For brokerage accounts, a third review was conducted by a private bank supervisory manager who held a securities license. Despite this review, the firm failed to enforce its own procedures and failed to properly follow-up and investigate red flags and/or other irregularities in hundreds of the POAs, including but not limited to instances where a non-notary acting as a witness signed on the notarization line, where the signature and/or witness dates were blank or in conflict, and where a signature required by firm procedures was missing. The findings also included that by failing to adequately supervise the execution and approval of customer POAs for private bank accounts, the firm kept and maintained POAs in its records that contained inaccurate information.

FINRA found that once the firm identified the problem, it required relevant personnel to undergo additional training. Despite such training, although their frequency did diminish, irregularities in the POAs continued through the end of 2015. ([FINRA Case #2014040597101](#))

**KCG Americas LLC** ([CRD #149823](#), New York, New York) submitted an AWC in which the firm was censured and fined a total of \$50,000, of which \$22,500 is payable to FINRA. The remaining balance of the fine will be paid to other self-regulatory organizations. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to take reasonable steps to establish that intermarket sweep orders it routed met the definitional requirements set forth in Regulation NMS Rule 600(b)(30). The findings stated that the firm failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with the applicable securities laws

and regulations, and FINRA rules, concerning compliance with Regulation NMS Rule 611(c). In addition, the firm's supervisory system did not include sufficient WSPs to ensure compliance with Regulation NMS Rule 611(c). ([FINRA Case #2014043099201](#))

**KCG Americas LLC** ([CRD #149823](#), New York, New York) submitted an AWC in which the firm was censured, fined \$105,000, and required to address the firm's Regulation SHO deficiencies to ensure that it has implemented procedures that are reasonably designed to achieve compliance with the applicable rules and regulations. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in an equity security that resulted from a short sale transaction, and did not close-out the position by purchasing or borrowing securities of like kind and quantity within the time frame and manner prescribed by Rule 204(a) of Regulation SHO. The findings stated that the firm had fail-to-deliver positions at a registered clearing agency in an equity security that resulted from the sale of a security that the seller was deemed to own pursuant to §242.200, and intended to deliver once all restrictions on delivery had been removed, and did not close out the fail-to-deliver position by purchasing securities of like kind and quantity within the time frame prescribed by Rule 204(a)(2) of Regulation SHO. The firm effected short sales for its own account without first borrowing the security, or entering into a bona fide arrangement to borrow the security, while it had a fail-to-deliver position at a registered clearing agency that had not been closed out in accordance with the requirements of Rule 204(a) of Regulation SHO. The firm had fail-to-deliver positions at a registered clearing agency in an equity security that was attributable to market-making activities, and did not close out the fail-to-deliver position by purchasing or borrowing securities of like kind and quantity within the time frame prescribed by Rule 204(a)(3) of Regulation SHO. The firm had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from a long sale transaction, and did not close-out the position by purchasing or borrowing securities of like kind and quantity within the time frame and manner prescribed by Rule 204(a) of Regulation SHO.

The findings also stated that the firm failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning Regulation SHO. In addition, the firm's supervisory system did not include sufficient WSPs providing for a statement of the supervisory steps to be taken by the identified persons responsible for supervision with respect to the applicable rules. ([FINRA Case #2013036278101](#))

**Lek Securities Corporation** ([CRD #33135](#), New York, New York) was censured and fined \$100,000. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm failed to establish and implement anti-money laundering (AML) policies and procedures and internal controls that could be reasonably expected to detect and cause the reporting of suspicious transactions and that were reasonably designed to achieve

compliance with the Bank Secrecy Act and the implementing regulations promulgated by the Department of the Treasury. The findings stated that the firm depended upon an ad hoc, undocumented, manual system of surveillance for potential wash trades and other types of manipulative activities that was inadequate in the high-volume electronic trading environment in which the firm operated. Although the firm later instituted new surveillance procedures and mechanisms, its approach to its AML responsibilities remained inadequate in design and implementation since it did not document the actual review, investigation and determination with respect to any particular potential suspicious trading, and did not specify the procedures for investigating suspicious trading and determining whether a Suspicious Activity Report (SAR) should be filed.

This matter has been appealed to the SEC and the sanctions are not in effect pending review. ([FINRA Case #2009020941801](#))

**Leumi Investment Services Inc. (CRD #105387, New York, New York)** submitted an AWC in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to report the correct trade execution time for transactions in TRACE-eligible corporate debt securities to TRACE and failed to report a large portion of those transactions within the timeframe required by FINRA Rule 6730. The findings stated that the firm failed to show the correct execution time on brokerage order memoranda for a large portion of the transactions in corporate debt securities. ([FINRA Case #2015046870701](#))

**Lincoln Financial Securities Corporation (CRD #3870, Fort Wayne, Indiana)** submitted an AWC in which the firm was censured, fined \$650,000 and required to, within 210 days of the issuance of the AWC, certify to FINRA in writing that the firm has completed a review of its WSPs and systems concerning the reasonable safeguarding of confidential customer data and implemented necessary revisions to such procedures and systems that are reasonably designed to achieve compliance with Rule 30 of Regulation S-P of the Exchange Act. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to establish, maintain and enforce a supervisory system, including WSPs, reasonably designed to ensure the security of confidential customer information and records stored on electronic systems at the firm's branch offices. The findings stated that the firm failed to ensure that the third-party vendor the firm's office of supervisory jurisdiction (OSJ) retained to configure the cloud server being used to store records properly installed antivirus software or data encryption for the stored documents. Subsequently, hackers with foreign Internet protocol addresses were able to access the cloud server, exposing the confidential records and information of approximately 5,400 customers. The firm reported the breach to FINRA and notified in writing the individuals who could have been affected and offered credit monitoring, without charge, for one year. The firm failed to adopt WSPs regarding the storage of customer data on cloud-based systems until several months after the breach of the cloud server. At that time, the firm amended its data security policy to provide some guidance to representatives regarding

the storage of customer data on cloud servers. The data security policy, however, was insufficient. The firm also failed to ensure that its registered representatives or the third-party vendors retained by its representatives adequately applied the data security policy or otherwise protected the records and information stored on electronic systems at the firm's branch offices. The firm relied on the vendors selected by its registered representatives to complete their assigned tasks, and failed to take adequate steps to monitor or audit the vendors' performance. Indeed, the firm failed to adequately test and verify the security of information stored on cloud servers at the firm's branch offices. In addition, the firm did not have any adequate way to learn if a computer server at one of the firm's branches was breached. The findings also stated that the firm failed to establish, maintain and enforce a supervisory system, including WSPs, reasonably designed to ensure the preservation, retention, and review of consolidated reports produced by registered representatives and provided to firm customers, and failed to retain certain consolidated reports. Materials provided to representatives upon association with the firm provided that written authorization from the customer must be received before using the manual entry feature to enter assets and asset values into the consolidated reports, backup documentation for manually entered assets must be retained in a client file for verification and audit purposes, and only certain approved assets could be entered manually. However, the firm did not have WSPs governing the acceptable forms of written authorization required before manual entries were permitted, and did not have adequate supervisory systems or any WSPs to ensure compliance with this requirement. Similarly, the firm did not have WSPs outlining the backup documentation that was required to be maintained for manually entered assets, and had an inadequate system to check that such backup documentation was, in fact, retained. Also, the firm did not conduct any specific reviews to ensure that only approved assets were listed on consolidated reports. Further, the firm's WSPs did not require a review of manual entries on consolidated reports, and had an inadequate system to review the consolidated reports that firm representatives sent to customers. The firm is unable to determine how many consolidated reports were generated that it failed to retain. ([FINRA Case #2013035036601](#))

**Mischler Financial Group, Inc. ([CRD #37818](#), Corona Del Mar, California)** submitted an AWC in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securitized products to TRACE within the time required by FINRA Rule 6730(a). ([FINRA Case #2015046491901](#))

**Morgan Stanley Smith Barney LLC ([CRD #149777](#), Purchase, New York)** submitted an AWC in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in an equity security that resulted from a long sale, and did not close out the fail-to-deliver position by purchasing or borrowing securities of like kind and quantity within the time frame prescribed by SEC Rule 204(a) (1). The findings stated that the firm had fail-to-deliver positions at a registered clearing

agency in an equity security that the seller was deemed-to-own pursuant to §242.200 and intended to deliver once all restrictions on delivery had been removed, and did not close out the fail-to-deliver position by purchasing or borrowing securities of like kind and quantity within the time frame prescribed by SEC Rule 204(a)(2) of Regulation SHO. The firm also executed sale orders and failed to properly mark the orders as short. ([FINRA Case #2013037025101](#))

**Odeon Capital Group LLC** ([CRD #148493](#), New York, New York) submitted an AWC in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to report the correct execution time for securitized products transactions to TRACE, failed to show the correct execution time on brokerage order memoranda, and failed to report securitized product transactions to TRACE within the time required by FINRA Rule 6730(a). ([FINRA Case #2015046462601](#))

**Oppenheimer & Co. Inc.** ([CRD #249](#), New York, New York) submitted an AWC in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to provide written notification to its customers disclosing the call date and dollar price of the call in transactions in municipal securities executed on the basis of a yield to call. The findings stated that the firm failed to provide written notification disclosing to its customers the correct lowest effective yield in transactions in municipal securities, and provided a written notification improperly disclosing to its customer a yield to call in a transaction in a municipal security with a variable interest rate. ([FINRA Case #2015044484601](#))

**Park Avenue Securities LLC** ([CRD #46173](#), New York, New York) submitted an AWC in which the firm was censured and fined \$195,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to enforce its WSPs regarding the monitoring of customer trades, and failed to establish and maintain a supervisory system reasonably designed to follow up on the performance of its supervisors with regard to monitoring trade executions. The findings stated that the firm also failed to establish, maintain and enforce a supervisory system reasonably designed to review and monitor the transmittal of funds from its customer accounts to third-party accounts and outside entities. As a result of these deficiencies, the firm failed to detect the unauthorized sales of securities and the wiring of funds by a firm unregistered administrative assistant who misappropriated approximately \$255,300 from the accounts of two elderly customers over a period of more than three years. The firm lacked a reasonable system of follow-up and review to ascertain that its agency control officers (ACOs) were properly performing their delegated function of comparing order tickets with transaction blotters and trade confirmations. Although the firm conducted annual examinations of its OSJs, such as the one that supervised the detached branch office where the unregistered administrative assistant worked, these examinations did not evaluate whether the ACOs properly reviewed and matched transaction logs and order tickets. As a result of these supervisory failures, the

unregistered administrative assistant evaded detection of her misappropriation scheme for more than three years. Because the firm failed to match order tickets with transaction log entries on a consistent basis, it did not determine that the administrative assistant failed to record some of the orders on the branch office's transaction log. In addition, because the ACO failed to match order tickets with trade confirmations, he was unable to determine that some of the orders were never sent to him for review. The failure of the firm's supervisory system to include in its annual examinations of its OSJs any process to evaluate whether the ACOs had properly reviewed and matched order tickets with transaction logs and trade confirmations was unreasonable.

The findings also stated that the firm's supervisory control system failed to include a policy or procedure requiring a review to detect or prevent the transmittal of funds from multiple customers going to the same third-party account, such as the creation of reasonably tailored exception reports. Consequently, the firm failed to detect that the administrative assistant had initiated 63 unauthorized wire transfers, totaling approximately \$255,300, out of the customers' accounts, to a bank account she owned. Upon learning of her conduct, the firm conducted an investigation and subsequently reimbursed the customers for the funds misappropriated from their accounts. ([FINRA Case #2014041510202](#))

**RBC Capital Markets, LLC** ([CRD #31194](#), New York, New York) submitted an AWC in which the firm was censured and fined \$975,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it overstated its advertised trade volume due to two separate computer coding errors. One error caused the firm's systems to incorporate trade volume from its electronic trading desk not only on T+3, but also erroneously on at least T+4 and T+5, resulting in multiple advertisements of the same volume. The findings stated that as a result, the firm's trade volume advertised through private service providers was overstated in at least 350,000 instances across more than 6,000 securities, totaling at least 20 billion shares. A second error caused advertised trade volume from the firm's electronic trading desk to be reported with the wrong execution date. In particular, trade volume from that desk, which was submitted on T+3, was inaccurately published by a private service provider as if it was executed on the submission date. The findings also stated that the firm failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and NASD® and FINRA rules, concerning advertised trade volume, and its supervisory system did not include sufficient WSPs. ([FINRA Case #2014041377101](#))

**TIAA-CREF Individual & Institutional Services, LLC** ([CRD #20472](#), New York, New York) submitted an AWC in which the firm was censured and fined \$275,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that as a result of technological errors and in one case, an ambiguous clause in a vendor agreement, the firm did not make timely delivery of customer confirmations for certain types of transactions. The findings stated that the firm failed to deliver immediate



confirmations to customers in connection with multiple transaction types. These delivery failures resulted from a computer coding error by which the firm's system was not properly programmed to generate immediate confirmations for these unique transactions types. Despite the absence of immediate confirmations, customers separately received notice of the relevant transactions through other means, including quarterly statements.

The findings also stated that the firm neglected to send email notifications to certain customers alerting them when an electronic confirmation was generated and made available for online viewing. This oversight resulted from the firm's failure to activate an electronic switch during the transition to a new automated confirmation process. Although the relevant customer confirmations were in fact generated and available for the customers to view online even while the electronic switch was not activated, until it was activated the firm's system was unable to recognize which customers had opted to receive email notifications, and thus it was not sending those notifications.

The findings also included that following the implementation of a new automated system and while replacing vendors for paper confirmation production and delivery, the firm discovered that its original vendor had sent paper confirmations for certain transactions two days or more after the transaction rather than one day after the transaction. This delay resulted from an ambiguity created by the language in the agreement between the firm and the vendor. FINRA found that the firm delivered confirmations for certain transactions that did not explicitly denote the firm's capacity as agent. Although the affected transactions represented a very small percentage of the firm's overall transactions during the relevant period, in the aggregate they numbered in the millions. ([FINRA Case #2016049779401](#))

**Tradition Securities and Derivatives, Inc. ([CRD #28269](#), New York, New York)** submitted an AWC in which the firm was censured and fined \$52,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to report information regarding purchase and sale transactions effected in municipal securities to the RTRS in the manner prescribed by MSRB Rule G-14 and the procedures described in the RTRS users' manual. The findings stated that the firm failed to report information about such transactions to an RTRS Portal within 15 minutes after the trade time, and improperly reported to the RTRS intra-dealer transfers of municipal securities that were not reportable to the RTRS. ([FINRA Case #2014041130901](#))

**Tullett Prebon Financial Services LLC ([CRD #28196](#), Jersey City, New Jersey)** submitted an AWC in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it did not establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to prevent the entry of erroneous duplicative orders via an electronic trading platform that it used to provide market access to its customers. The findings stated that with an average daily volume of 1.3 billion shares, the firm had a responsibility to ensure that no erroneous duplicative orders were entered on the platform. ([FINRA Case #2014041584501](#))

**VFinance Investments, Inc.** ([CRD #44962](#), Boca Raton, Florida) submitted an AWC in which the firm was censured, fined \$17,500, and required to revise its WSPs. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to transmit ROEs to OATS. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and FINRA rules. The firm's WSPs failed to provide for one or more of the minimum requirements for adequate WSPs for OATS reporting. ([FINRA Case #2015046601601](#))

## Firms Sanctioned

**H.D. Vest Investment Services, Inc.** ([CRD #13686](#), Irving, Texas) submitted an AWC in which the firm was censured and required to provide FINRA with a remediation plan to remediate eligible customers who qualified for, but did not receive, the applicable mutual fund sales charge waiver. As part of this settlement, the firm agrees to pay restitution to eligible customers, which is estimated to total \$261,905 (the amount eligible customers were overcharged, inclusive of interest). Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it disadvantaged certain retirement plan and charitable organization customers that were eligible to purchase Class A shares in certain mutual funds without a front-end sales charge. The findings stated that these eligible customers were instead sold Class A shares with a front-end sales charge, or Class B or C shares with back-end sales charges and higher ongoing fees and expenses. These sales disadvantaged eligible customers by causing such customers to pay higher fees than they were actually required to pay.

The findings also stated that the firm failed to reasonably supervise the application of sales-charge waivers to eligible mutual fund sales. The firm relied on its financial advisors to determine the applicability of sales-charge waivers, but failed to maintain adequate written policies or procedures to assist financial advisors in making this determination. In addition, the firm failed to adequately notify and train its financial advisors regarding the availability of mutual fund sales charge waivers for eligible customers. The firm also failed to adopt adequate controls to detect instances in which they did not provide sales-charge waivers to eligible customers in connection with their mutual fund purchases. As a result of the firm's failure to apply available sales-charge waivers, the firm estimates that eligible customers were overcharged by approximately \$219,930 for mutual fund purchases made since July 1, 2009. ([FINRA Case #2016048632401](#))

**MML Investors Services, LLC** ([CRD #10409](#), Springfield, Massachusetts) submitted an AWC in which the firm was censured and required to provide FINRA with a remediation plan to remediate eligible customers who qualified for, but did not receive, the applicable mutual fund sales charge waiver. As part of this settlement, the firm agrees to pay restitution to eligible customers, which is estimated to total \$1,864,167.77 (the amount eligible customers were overcharged, inclusive of interest). The firm will also ensure that retirement and charitable waivers are appropriately applied to all future transactions.

Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it disadvantaged certain retirement plan and charitable organization customers that were eligible to purchase Class A shares in certain mutual funds without a front-end sales charge. The findings stated that these eligible customers were instead sold Class A shares with a front-end sales charge, or Class B or C shares with back-end sales charges and higher ongoing fees and expenses. These sales disadvantaged eligible customers by causing such customers to pay higher fees than they were actually required to pay.

The findings also stated that the firm failed to reasonably supervise the application of sales-charge waivers to eligible mutual fund sales. The firm relied on its financial advisors to determine the applicability of sales-charge waivers, but failed to maintain adequate written policies or procedures to assist financial advisors in making this determination. In addition, the firm failed to adequately notify and train its financial advisors regarding the availability of mutual fund sales charge waivers for eligible customers. The firm also failed to adopt adequate controls to detect instances in which they did not provide sales charge waivers to eligible customers in connection with their mutual fund purchases. As a result of the firm's failure to apply available sales charge waivers, the firm estimates that eligible customers were overcharged by approximately \$1,577,112.12 for mutual fund purchases made since July 1, 2009. ([FINRA Case #2016049185701](#))

**Principal Securities, Inc. ([CRD #1137](#), Des Moines, Iowa)** submitted an AWC in which the firm was censured and required to provide FINRA with a remediation plan to remediate eligible customers who qualified for, but did not receive, the applicable mutual fund sales charge waiver. As part of this settlement, the firm agrees to pay restitution to eligible customers, which is estimated to total \$1,035,000 (the amount eligible customers were overcharged, inclusive of interest). The firm will also ensure that retirement and charitable waivers are appropriately applied to all future transactions. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it disadvantaged certain retirement plan and charitable organization customers that were eligible to purchase Class A shares in certain mutual funds without a front-end sales charge. The findings stated that these eligible customers were instead sold Class A shares with a front-end sales charge, or Class B or C shares with back-end sales charges and higher ongoing fees and expenses. These sales disadvantaged eligible customers by causing such customers to pay higher fees than they were actually required to pay.

The findings also stated that the firm failed to reasonably supervise the application of sales-charge waivers to eligible mutual fund sales. The firm relied on its financial advisors to determine the applicability of sales-charge waivers, but failed to maintain adequate written policies or procedures to assist financial advisors in making this determination. In addition, the firm failed to adequately notify and train its financial advisors regarding the availability of mutual fund sales-charge waivers for eligible customers. The firm also failed to adopt adequate controls to detect instances in which they did not provide sales-charge

waivers to eligible customers in connection with their mutual fund purchases. As a result of the firm's failure to apply available sales-charge waivers, the firm estimates that eligible customers were overcharged by approximately \$900,000 for mutual fund purchases made since July 1, 2009. ([FINRA Case #2015048330401](#))

## Individuals Barred or Suspended

**Kenny Akinfolarin Akindemowo** ([CRD #4315718](#), Hopkins, Minnesota) was barred from association with any FINRA member firm in any capacity and ordered to disgorge \$15,000, plus prejudgment interest. The SEC sustained the sanctions following an appeal of a NAC decision. The sanctions were based on findings that Akindemowo converted the funds of two women by inducing them to invest an aggregate of \$15,000 in purported private securities transactions that would yield profits, and did so by intentionally making fraudulent misrepresentations, in violation of FINRA Rule 2020. The findings stated that Akindemowo exploited his personal relationships with the women and persuaded them to give him the money based upon his misrepresentation that their funds would be invested. Instead, Akindemowo deposited their funds in an account that he controlled and used the funds for his personal expenses. Both women complained to Akindemowo's member firm after numerous requests to Akindemowo for documentation of their investments. The firm refunded both women their investments, plus interest. Akindemowo was permitted to resign while he was under investigation with the firm. The findings also stated that Akindemowo engaged in private securities transactions, which were outside the regular course and scope of his employment with his firm, without prior written notice to and written permission from the firm. Additionally, Akindemowo engaged in outside business activities without providing written notice to his firm about his efforts to establish an insurance agency and that he incorporated a legal entity in connection with that activity. ([FINRA Case #2011029619301](#))

**Paul McLellan Alexander Jr.** ([CRD #4285605](#), Jupiter, Florida) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Alexander consented to the sanctions and to the entry of findings that in contravention of his member firm's policies and procedures, he effected transactions while exercising discretion without prior written authorization in customer accounts and without his firm accepting the accounts as discretionary.

The suspension was in effect from November 21, 2016, through December 19, 2016. ([FINRA Case #2015044036601](#))

**Clifford Eugene Amos** ([CRD #3158087](#), Thomasville, Alabama) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Amos consented to the sanctions and to the entry of findings that he photocopied

previously signed forms, altered the forms and submitted the forms as authentic to his member firm or to other entities. The findings stated that these reused forms included his firm's distribution/withdrawal request forms, new account applications, variable annuity applications, exchange forms and notices. Amos obscured and altered pertinent information and submitted the reused forms with non-original signatures as originals to his firm. Amos submitted the forms to his firm with the non-original signatures for the convenience of the respective customers. However, Amos' alteration of information, the reuse of customer signatures, and the submission of the altered forms as originals to his firm or to other entities caused his firm to maintain inaccurate books and records, and violated the firm's WSPs.

The suspension is in effect from November 21, 2016, through February 20, 2017. ([FINRA Case #2015044107701](#))

**Michael Scott Androulakis (CRD #2793638, Staten Island, New York)** submitted an AWC 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, Androulakis consented to the sanctions and to the entry of findings that he executed an unauthorized transaction in a customer account. The findings stated that Androulakis was notified of an email purportedly sent from a customer's email account requesting a wire transfer of approximately \$54,000. Unbeknownst to Androulakis, an imposter had sent the email. In an effort to raise proceeds to fund the wire transfer, Androulakis sold shares of a stock in the customer's account for approximately \$52,720. The imposter claimed to be unreachable by phone because of a death in his family. Androulakis executed the transaction without seeking authority or receiving instructions from the customer.

The suspension was in effect from December 5, 2016, through December 16, 2016. ([FINRA Case #2015044059101](#))

**Kevin Lawrence Barbalace (CRD #4456476, Baltimore, Maryland)** submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Barbalace consented to the sanctions and to the entry of findings that he made unsuitable investment recommendations to a customer, and exposed the customer to a risk of loss that was inconsistent with the customer's financial needs and situation. The findings stated that Barbalace recommended and made trades in the customer's individual retirement account (IRA) and regular account that resulted in an excessive concentration of low-priced stocks in the customer's accounts. When the customer transferred the accounts from Barbalace's member firm, the customer incurred more than \$7,000 in net losses. The findings also stated that Barbalace accepted a check from the customer for an undisclosed outside business activity. Barbalace charged the customer \$750 to complete online paperwork for the customer to open a limited liability company and to retain Barbalace for as-needed business consultation. This activity was outside the scope of Barbalace's

relationship with his firm. Further, Barbalace never disclosed this activity to the firm, nor did he disclose the activity in the annual disclosure of outside business activity and political contributions form he completed.

The suspension is in effect from November 21, 2016, through February 20, 2017. ([FINRA Case #2015047757701](#))

**Donald Andrew Bartelt** ([CRD #1377935](#), Cave Creek, Arizona), **Antonio Costanzo** ([CRD #2580765](#), Chesapeake, Virginia) and **David Michael Levy** ([CRD #2255938](#), Wellington, Florida). Bartelt was fined \$250,000, less any amounts that he can demonstrate he has paid in restitution; barred from association with any FINRA member in any capacity; and ordered to pay \$200,330.66, plus interest, in restitution to customers. Costanzo was fined \$150,000, less any amounts that he can demonstrate he has paid in restitution; barred from association with any FINRA member in any capacity; and ordered to pay \$114,841.52, plus interest, in restitution to customers. Levy was fined \$150,000, less any amounts that he can demonstrate he has paid in restitution; barred from association with any FINRA member in any capacity; and ordered to pay \$125,651.51, plus interest, in restitution to customers.

The sanctions were based on findings that Bartelt, Costanzo, and Levy recommended quantitatively unsuitable trading in customer accounts. The findings stated that the trading activity in all of the accounts at issue was excessive and inconsistent with the customers' financial circumstances and investment objectives. The findings also stated that the benefits to Bartelt, Costanzo and Levy far outstripped any likely return to the customers from the trading, making it clear that Bartelt, Costanzo and Levy were trading for their own benefit without regard to the customers' interests. Accordingly, Bartelt, Costanzo, and Levy acted in willful and reckless disregard of the customers' interests and churned customer accounts in violation of Section 10(b) and Rule 10b-5 of the Exchange Act, NASD Rule 2120 and FINRA Rule 2020.

The findings also included that Levy and Costanzo recommended qualitatively unsuitable investments to customers in transactions involving leveraged or inverse exchange-traded products. FINRA found that Levy and Costanzo also attempted to obstruct FINRA's disciplinary process by conditioning offers of restitution on the customers' refusal to cooperate with FINRA's investigation and by attempting to dissuade customers from testifying at a FINRA disciplinary hearing. ([FINRA Case #2012030564701](#))

**Harry Colon Bennett** ([CRD #2395555](#), New Boston, Michigan) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bennett consented to the sanction and to the entry of findings that he refused to appear for FINRA on-the-record testimony in connection with an investigation involving allegations that he may have engaged in sales practice violations by charging excessive commissions and recommending unsuitable transactions to his customers. The findings stated that Bennett's refusal to appear for on-the-record testimony prevented FINRA from reaching a determination as to whether the alleged violations occurred. ([FINRA Case #2016049208901](#))

**Liam Jeffrey Binsack** ([CRD #2589683](#), Westbury, New York) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Binsack consented to the sanction and to the entry of findings that he failed to respond to a FINRA request for documents and information, and failed to provide FINRA with on-the-record testimony. The findings stated that the requests were made following Binsack's member firm filing a Uniform Termination Notice for Securities Industry Registration (Form U5) disclosing that Binsack was terminated because he accessed a firm system and altered company records in order to increase brokerage revenue attributable to himself. ([FINRA Case #2016051898201](#))

**Cynthia Robin Bolker** ([CRD #1182590](#), Del Mar, California) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bolker consented to the sanction and to the entry of findings that she borrowed at least \$745,800 from individuals, two of whom were customers at her member firm, to pay for her personal expenses. The findings stated that Bolker did not disclose to her firm that she borrowed from the customers, though she understood that the firm's policies and procedures prohibited borrowing from customers. The findings also stated that Bolker's firm began an internal investigation into her borrowing activity. During an interview with the firm, Bolker provided false and misleading information, including denying that she borrowed from any firm customers. Subsequently, on several occasions during the internal investigation, Bolker falsely denied that she had borrowed from any customers of the firm. Bolker knew these statements were false when she made them. The findings also included that Bolker provided a false, misleading, and incomplete response to FINRA's request for documents and information as part of an investigation into her borrowing activity. ([FINRA Case #2015047753401](#))

**John E. Burns** ([CRD #5303146](#), St. Charles, Missouri) submitted an AWC in which he was assessed a deferred fine of \$17,500 and suspended from association with any FINRA member in any capacity for 14 months. Without admitting or denying the findings, Burns consented to the sanctions and to the entry of findings that he engaged in a pattern of unauthorized trading in customer accounts and made unsuitable, risky investments for a senior couple. The findings stated that Burns did not have written discretionary authority to place trades in any of these customer accounts. In some of the customer accounts, Burns executed the trades without any authorization, while in other customer accounts, Burns had some verbal authorization to exercise discretion generally, but exceeded that verbal authorization by executing trades in excess of the available funds in the account. The findings also stated that Burns made unsuitable and unauthorized investments over a two-year period in the account of a senior retired couple, both of whom were over 65 years old. These transactions involved repeated high-risk investments in small drug company stocks which were unsuitable for the customers' moderate risk tolerance and investment profile. The customers sustained losses in all but one of these investments in an aggregate amount exceeding \$50,000.



The suspension is in effect from December 5, 2016, through February 4, 2018. ([FINRA Case #2014042270001](#))

**Anthony Joseph Cacaro** ([CRD #1092443](#), Memphis, Tennessee) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, Cacaro consented to the sanctions and to the entry of findings that he willfully failed to update his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose that he had been charged with a felony.

The suspension is in effect from November 7, 2016, through May 6, 2017. ([FINRA Case #2016050022201](#))

**Christopher James Conroy** ([CRD #1481945](#), Madison, New Jersey) submitted an AWC 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, Conroy consented to the sanctions and to the entry of findings that he exercised discretion in a customer's accounts without obtaining the customer's prior written authorization or his member firm's written approval of the accounts as discretionary. The findings stated that Conroy regularly discussed investment strategies with the customer, and while the customer authorized the initial purchase of the securities, Conroy exercised his discretion in executing subsequent purchases in those same securities on dates when he had not spoken with the customer.

The suspension was in effect from December 19, 2016, through January 3, 2017. ([FINRA Case #2015047589801](#))

**Dominic Thomas DeBruin** ([CRD #2788196](#), West Long Branch, New Jersey) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, DeBruin consented to the sanction and to the entry of findings that he refused to provide FINRA with requested information and documents and appear for on-the-record testimony as part of an investigation into the purported misconduct reported in his Form U5 that he was under internal review by his former member firm for depositing a client's funds, which were related to potential private securities transactions undisclosed to the firm, into a bank account he controlled. ([FINRA Case #2016051522501](#))

**Stuart Graham Dickinson** ([CRD #1047824](#), Highland Park, Texas) was barred from association with any FINRA member in any capacity and required to pay \$924,000, plus interest, in restitution to customers. The sanctions were based on findings that Dickinson sold securities without reasonable grounds for believing that the investment was suitable for any investor. The findings stated that Dickinson sold more than \$1 million of limited partnership interests in a company whose purported business was to acquire and operate automated teller machines (ATMs) to seven customers while he was associated with his

member firm. The company did not own any ATMs. Dickinson's firm permitted him to sell interests in the company as private securities transactions. Dickinson recommended the securities without first conducting adequate and reasonable due diligence on the company. Dickinson failed to verify or confirm information he obtained from interested parties, and failed to detect multiple red-flag warnings that the company was a fraudulent Ponzi scheme. As a result, the customers lost their entire investments. If Dickinson had conducted a reasonable investigation, he would have recognized red flags indicating that the offering was fraudulent and thus unsuitable for any investors regardless of their wealth, risk tolerance, age or other individual characteristics. ([FINRA Case #2012033286901](#))

**Matthew DiGregorio** ([CRD #2434158](#), Oceanside, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that DiGregorio failed to pay an arbitration award. The findings stated that DiGregorio failed to satisfy the award or move to have it vacated. The findings also stated that DiGregorio failed to produce information and documents that an arbitration panel ordered him to produce. During the course of the arbitration, DiGregorio requested and was granted the rescheduling of arbitration sessions based on his representations that he had family emergencies. The arbitration panel on two occasions ordered DiGregorio to produce documents to support his contentions, and DiGregorio twice failed and refused to produce the documents. ([FINRA Case #2015045909501](#))

**Jack Gioacchino Donnarumma** ([CRD #5405736](#), Totowa, New Jersey) submitted an AWC in which he was assessed a deferred fine of \$20,000 and suspended from association with any FINRA member in any capacity for two years. Without admitting or denying the findings, Donnarumma consented to the sanctions and to the entry of findings that he made misrepresentations in communications with customers and prospective customers that he was an officer or employee of his member firm's bank affiliate and regarding his firm and the bank's interest in completing transactions, and disregarded instructions from his supervisor to cease communications regarding standby letters of credit (SBLCs) and bank guarantees. The findings stated that as a financial advisor at his firm, Donnarumma did not have authority to do anything more than refer customers interested in SBLCs or bank guarantees to the firm's affiliate bank. During the course of these communications, on several occasions, Donnarumma misrepresented himself as a personal banker, a banker and a bank officer. Donnarumma also falsely stated in an email that the bank was prepared to close immediately on a SBLC purchase transaction. Additionally, Donnarumma sent a letter to a prospective customer on the firm's letterhead falsely claiming that it was interested in providing financing for a proposed sale-leaseback transaction involving five commercial jets. None of the foregoing transactions were ever consummated. Several of Donnarumma's communications about SBLCs and bank guarantees occurred after Donnarumma's supervisor instructed him to discontinue any communications about these bank products. The findings also stated that Donnarumma failed to respond to FINRA's requests for documents in a timely manner.

The suspension is in effect from November 21, 2016, through November 20, 2018. ([FINRA Case #2014043750201](#))

**Maria Fan** ([CRD #4926890](#), New York, New York) submitted an AWC in which she was assessed a deferred fine of \$7,500 and suspended from association with any FINRA member in any capacity for 60 days. Without admitting or denying the findings, Fan consented to the sanctions and to the entry of findings that contrary to her member firm's policies, she used the text-messaging function of a non-firm-issued smartphone to exchange business-related messages with a customer. The findings stated that these messages included, among other things, recommendations of securities and discussions of the customer's account performance at the firm. Fan also provided the customer with her personal email address and instructed the customer to use that email address in connection with a business-prospecting project that the customer was completing as Fan's intern. The firm's WSPs in effect required all electronic business communications to be transmitted only through firm-sponsored systems, and prohibited the use of personal email accounts for business communications. Fan did not provide the firm with her communications with the customer or inform it that she was communicating with the customer via text message and personal email. Fan's use of text messages and a non-firm-issued email address caused her firm to fail to retain those communications and undermined the firm's ability to supervise Fan's communications with a customer. The findings also stated that text messages Fan sent to the customer contained exaggerated and promissory language or inappropriately projected performance of securities that Fan had purchased for the customer.

The suspension was in effect from November 7, 2016, through January 5, 2017. ([FINRA Case #2015048357001](#))

**Mitchell Harris Fillet** ([CRD #207546](#), Riverside, Connecticut) was fined \$10,000 and suspended from association with any FINRA member in any capacity for 12 months. The SEC sustained the sanctions following an appeal of a NAC decision. The sanctions were based on findings that Fillet misrepresented and failed to disclose certain material facts in offering documents to an investor. The findings stated that in the offering document for a private placement of securities, Fillet misrepresented material facts and failed to disclose the criminal history of a person integral to the success of the offering.

The two-year suspension the SEC previously imposed for Fillet's intentional falsification of firm records is in effect from May 27, 2015, through May 26, 2017. The 12-month suspension for Fillet's misrepresentations and omissions will be in effect from May 30, 2017, through May 30, 2018. ([FINRA Case #2008011762801](#))

**James Luis Fonseca** ([CRD #2679797](#), Miramar, Florida) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Fonseca consented to the sanction and to the entry of findings that he accepted \$25,000 from an individual he was soliciting to become a customer of his member firm, who agreed to invest in a day-trading endeavor with Fonseca. The findings

stated that Fonseca deposited and comingled the individual's funds in a bank account controlled by Fonseca and his wife. Fonseca then converted some of those funds at a time when the individual was a customer. The findings also stated that Fonseca failed to appear for FINRA on-the-record testimony and failed to provide FINRA with requested information in connection with its investigation into whether he comingled and converted customer funds. ([FINRA Case #2015048041101](#))

**Matthew Lee Geiser** ([CRD #4203782](#), Grand Island, Nebraska) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Geiser consented to the sanction and to the entry of findings that he refused to appear for FINRA on-the-record testimony in connection with an investigation into allegations of misconduct against Geiser, including allegations that he made unsuitable recommendations and misleading statements about variable annuities to several customers. (FINRA Case #2015047322501)

**Amy M. Greenberg** ([CRD #2110985](#), Roslyn, New York) submitted an AWC in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Greenberg consented to the sanctions and to the entry of findings that she failed to timely disclose Internal Revenue Service (IRS) tax liens filed against her on her Form U4.

The suspension is in effect from December 5, 2016, through March 4, 2017. ([FINRA Case #2015043643901](#))

**Talman Anthony Harris** ([CRD #3209947](#), Garden City, New York) and **William John Scholander** ([CRD #2938044](#), Brooklyn, New York). Harris was assessed a deferred fine of \$50,000 and suspended from association with any FINRA member in any capacity for six months. Scholander was assessed a deferred fine of \$50,000 and suspended from association with any FINRA member in any capacity for six months. The sanctions were based on findings that Scholander willfully failed to update his Form U4 to disclose a customer complaint alleging he engaged in unauthorized trading. The findings stated that Harris failed to adequately supervise Scholander to ensure appropriate disclosure of the complaint, and he willfully concealed the complaint from others at their member firm. Scholander received the written complaint against him by email from a firm customer. The customer told Scholander that she received an account statement reflecting a purchase of 203,965 shares of an entity, which resulted in a \$200,000 loss. The customer stated that she never authorized any trading in the account and instructed Scholander, her contact person for the account, to cancel the unauthorized purchases and return the lost funds to her account. When Scholander did not immediately cancel the trades, the customer and her attorney sent subsequent emails and correspondence threatening legal action unless the trades were rescinded. Despite the customer's written protestation of unauthorized trading, claim for substantial damages and retention of counsel, Scholander never updated his Form U4 to disclose the complaint. Scholander never cured his nondisclosure, even after FINRA brought it to his attention.

The findings also stated that Harris was a registered principal of the firm, a branch office manager, and Scholander's supervisor at the time of the customer complaint. When Scholander received the unauthorized trading complaint, he discussed it with Harris. Harris instructed Scholander to speak with the customer to resolve the matter, but did not notify compliance personnel at the firm's home office about the complaint. Instead, Harris prevented the compliance department from reviewing the communication by marking the email that included the complaint as privileged in the firm's email review system. Given Harris' awareness of the complaint against Scholander, Harris had an obligation to make the firm's compliance staff aware of the allegation and ensure that Scholander made the appropriate disclosure.

Harris' suspension is in effect from December 19, 2016, through June 18, 2017. Scholander's suspension is in effect from December 19, 2016, through June 18, 2017. ([FINRA Case #2013036681701](#))

**Jeffrey Alan Hill** ([CRD #2204945](#), Bemidji, Minnesota) submitted an AWC in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for 15 months, and required to pay \$45,000 in disgorgement of commissions received. Without admitting or denying the findings, Hill consented to the sanctions and to the entry of findings that he initiated hundreds of trades for two elderly customers without contacting them approximately half of the time, and recommended or engaged in dozens of transactions that were qualitatively or quantitatively unsuitable or lacked a reasonable basis, including short-term trading of corporate and municipal bonds. The findings stated that neither of those customers explicitly permitted Hill to use discretion in their accounts, nor did Hill's member firm allow him to use discretion in any customer's account.

The findings also stated that on several occasions, Hill recommended that one of the customers sell bonds shortly after buying them, or initiated such transactions for those customers. Neither changes in the bonds' prices, interest that accrued, changes in the issuers' condition, nor any other factors justified the short-term trading. Hill did not have a reasonable basis to believe that such short-term trading was suitable for any customer, particularly in light of the commissions that the customers paid as result of those transactions. Moreover, that trading was also quantitatively unsuitable, as the level of in-and-out activity and the resulting commissions were inconsistent with both of the customers' financial situations, needs and objectives. The findings also included that Hill recommended that one customer purchase securities on margin, and he purchased securities on margin for the customer's account. Hill's recommendation to use margin and his use of margin to purchase those securities was inconsistent with the customer's investment objectives, income needs and other available assets, and thus was qualitatively unsuitable.

The suspension is in effect from December 19, 2016, through March 18, 2018. ([FINRA Case #2015047008703](#))

**Richard Lynn Hollan** ([CRD #1401016](#), Houston, Texas) submitted an AWC in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Hollan consented to the sanctions and to the entry of findings that he mismarked order tickets in customers' accounts as unsolicited orders when, in fact, the trades were solicited, causing his member firm to maintain inaccurate book and records.

The suspension is in effect from December 19, 2016, through January 18, 2017. ([FINRA Case #2015043417508](#))

**Whitley Kiara Hood** ([CRD #6353444](#), Griffith, Indiana) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hood consented to the sanction and to the entry of findings that she refused to appear for FINRA on-the-record testimony related to allegations that she misappropriated funds from a bank affiliated with her former member firm. ([FINRA Case #2016050980701](#))

**Kevin Paul Hudak** ([CRD #4439153](#), Albuquerque, New Mexico) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hudak consented to the sanction and to the entry of findings that he submitted non-solicitation forms to his member firm that had non-authentic customer signatures. The findings stated that Hudak's firm required these non-solicitation forms in order to process low-priced securities transactions for his customers. Hudak falsified these non-solicitation forms by having customers sign blank forms, which he then photocopied and reused for future low-priced securities transactions. The findings also stated that Hudak provided false and misleading testimony to FINRA by repeatedly denying that he had asked customers to sign blank non-solicitation forms, and that he copied customer signatures for use as if they were authentic. ([FINRA Case #2015047041301](#))

**John Stuart Hudnall** ([CRD #4200298](#), Pacifica, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Hudnall consented to the sanction and to the entry of findings that he participated in an undisclosed and unapproved private securities transaction. The findings stated that Hudnall recommended and sold a REIT investment to an elderly customer, which he split into two simultaneous transactions of \$40,000 and \$360,000. To circumvent his member firm's supervisory review of such a large transaction of this kind, Hudnall executed the \$360,000 portion of the REIT investment for the customer directly with the REIT sponsor and without first providing it to the firm for the requisite prior preapproval and prior written notice. The \$400,000 REIT investment exceeded the firm's supervisory thresholds and, if fully disclosed to the firm, would have triggered additional supervisory review and likely would have not been approved. Hudnall generated a gross commission of \$25,200 in connection with the \$360,000 portion of the REIT investment.

The findings also stated that Hudnall made unapproved and undisclosed financial sales promotions to his firm's customers. Hudnall offered and paid monetary incentives to customers from his own personal funds to incent them to hold their fixed annuity contracts for at least a year before surrendering them, which enabled Hudnall to retain commissions he would have lost had the customers surrendered before the year was up. Hudnall made a promotional offer in which he promised to pay certain customers who purchased fixed annuities 1 percent annual interest if they held their fixed annuities for at least a year, when in fact this offer was not part of the fixed annuity product that he was selling. Hudnall did not disclose to his customers that the interest payments he promised to them would be paid, and ultimately were paid, from his personal funds, rather than the annuity issuer. Hudnall also did not disclose to his firm either his promotional offer or his related payments to the customers. The findings also included that Hudnall provided false information in response to FINRA's request for information by falsely denying that he had provided cashier's checks to any firm customers when in fact, as he later admitted, he had provided cashier's checks to customers. ([FINRA Case #2013036412601](#))

**Michael Johnson (CRD #1701671, Berwyn, Pennsylvania)** submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Johnson consented to the sanction and to the entry of findings that he purchased securities while in possession of material nonpublic information. The findings stated that Johnson purchased the shares while in possession of material nonpublic information regarding a company's impending acquisition that he had improperly obtained from an employee of the company. As a result of his conduct, Johnson willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and violated FINRA Rule 2020. ([FINRA Case #2016051575301](#))

**John Billy Kakonikos (CRD #4017356, Flushing, New York)** submitted an AWC in which he was assessed a deferred fine of \$10,000, suspended from association with any FINRA member in any capacity for 18 months, and ordered to pay deferred restitution in the amount of \$72,524.53, plus interest, to a customer. Without admitting or denying the findings, Kakonikos consented to the sanctions and to the entry of findings that he engaged in excessive and unsuitable trading in a customer's account, causing realized trading losses of \$72,524.53, while generating \$41,617.56 in fees and commissions. The findings stated that Kakonikos recommended and executed securities transactions in the customer's account, over which he had de facto control. Considering the customer's financial situation, lack of investment experience and needs, and requiring a minimum return of nearly 50 percent just to break even, Kakonikos' trading in the customer's account was excessive and quantitatively unsuitable for the customer. Overall, the account generated \$53,168.22 in cumulative costs, including margin interest. The findings also stated that Kakonikos effected purchase and sale securities transactions in the customer's account without her authorization, knowledge or consent.

The suspension is in effect from November 21, 2016, through May 20, 2018. ([FINRA Case #2015045718701](#))



**Sven Bernhard Karlen Jr. (CRD #264416, Hanover, New Hampshire)** submitted an AWC in which he was assessed a deferred fine of \$15,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, Karlen consented to the sanctions and to the entry of findings that while registered with two member firms, Karlen improperly effected discretionary trades in customer accounts, some of whom were Karlen's family members, without the firms' acceptance of the accounts as discretionary, and in most instances, without the customers' prior written approval. The findings stated that in almost all instances, Karlen did not have the customers' prior written approval to engage in such trading. Further, in no instance did Karlen obtain the discretionary trading approvals and forms the firms' policies required, and the firm did not accept the accounts as discretionary. The findings also stated that since Karlen did not mark the orders for the trades as discretionary in the firms' order systems, as their policies required, he caused the firms to create and maintain inaccurate books and records. The findings also included that while at one of the firms, Karlen made false and misleading statements on compliance documents concerning his use of discretion.

The suspension is in effect from December 5, 2016, through June 4, 2017. ([FINRA Case #2015044533901](#))

**Nathan Thomas Koenig (CRD #5192141, Fremont, Ohio)** submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Koenig consented to the sanctions and to the entry of findings that after becoming aware that a customer was unhappy with the performance of a unit investment trust he had purchased on Koenig's recommendation and in order to appease the customer and discourage him from complaining to Koenig's member firm, Koenig paid the customer by personal check to reimburse him for the losses on the investment. The findings stated that Koenig settled the customer's complaint without the firm's knowledge or consent. Notwithstanding Koenig's payment, the customer complained to the firm and requested lost interest on his investment. The firm thereafter learned of Koenig's settlement with the customer and terminated his employment.

The suspension was in effect from December 5, 2016, through December 23, 2016. ([FINRA Case #2015046234801](#))

**David William Major (CRD #2297223, Darien, Connecticut)** submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Major consented to the sanction and to the entry of findings that he failed to respond to FINRA's requests for information during the course of its investigation into his having allegedly deviated from the fees that his member firm generally charged for electronically matched transactions. ([FINRA Case #2016049887301](#))

**Karen McKinley** ([CRD #5608238](#), Bedford, New Hampshire) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, McKinley consented to the sanction and to the entry of findings that she failed to provide FINRA with requested documents and information during the course of its investigation into allegations relating to her compliance with pre-trade client confirmations in non-discretionary accounts. ([FINRA Case #2016051282901](#))

**Carnell Moore** ([CRD #2715870](#), Tampa, Florida) submitted an AWC 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, Moore consented to the sanctions and to the entry of findings that he engaged in an outside business activity without providing prior written notice to his member firm. The findings stated that Moore continued to disclose a company that he requested and received the firm's approval to participate in as an outside business activity after another company became that company's successor corporation, and he failed to disclose the company's successor as an outside business activity via the firm's electronic outside business interest reporting system. Moore also failed to disclose the company's successor as an outside business activity on compliance questionnaires that he submitted to the firm. Moore misrepresented on the questionnaires that he had no such outside business activities or interests.

The suspension is in effect from December 19, 2016, through January 17, 2017. ([FINRA Case #2014043610701](#))

**Peter Joseph Neary Jr.** ([CRD #1878395](#), South Lyon, Michigan) submitted an AWC in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Neary consented to the sanctions and to the entry of findings that he effected transactions (including both purchases and sales of securities) in the account of a former customer without having obtained the customer's prior written authorization and his member firm's written acceptance of the account as discretionary.

The suspension was in effect from December 5, 2016, through January 3, 2017. ([FINRA Case #2015044491201](#))

**Jeffrey Scott Nicholson** ([CRD #4853004](#), South Kingstown, Rhode Island) submitted an AWC in which he was assessed a deferred fine of \$2,500 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Nicholson consented to the sanctions and to the entry of findings that he failed to amend his Form U4 to disclose that he had been charged with a felony.

The suspension was in effect from November 7, 2016, through January 6, 2017. ([FINRA Case #2015046088701](#))

**James Vincent O'Reilly III** ([CRD #857252](#), Bird Creek, Alaska) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, O'Reilly consented to the sanctions and to the entry of findings that he willfully failed to amend his Form U4 to disclose a felony charge and no contest plea.

The suspension is in effect from November 21, 2016, through May 20, 2017. ([FINRA Case #2016048695601](#))

**Thomas Eric Omark** ([CRD #2121589](#), Erie, Pennsylvania) submitted an AWC in which he was assessed a deferred fine of \$15,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, Omark consented to the sanctions and to the entry of findings that he exercised discretion in executing transactions in customer accounts without written authorization for discretionary trading. The findings stated that Omark mismarked order tickets in customer accounts for the purchase of preferred stock for his member firm's parent company, inaccurately indicating that the purchases were unsolicited. The firm's policy prohibited its representatives from soliciting the purchase of any firm-related stock.

The suspension is in effect from November 21, 2016, through May 20, 2017. ([FINRA Case #2015047550801](#))

**Shannon Lynn Parkoff-Moskoff** ([CRD #5750649](#), Boca Raton, Florida) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Parkoff-Moskoff consented to the sanction and to the entry of findings that she accessed another registered representative's credit card account and, without his authorization, converted credit card awards points earned on the the registered representative's business account for her own use by using those awards points to purchase goods worth \$4,763 for herself. ([FINRA Case #2016050531801](#))

**Melissa Ann Perry** ([CRD #4540176](#), Tipp City, Ohio) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Perry consented to the sanction and to the entry of findings that she refused to appear for FINRA on-the-record testimony relating to allegations that she changed insurance applications from non-standard to standard policies and caused automobile and homeowner insurance policies to be issued without customers' knowledge or consent, and intentionally failed to comply with customers' requests to remove vehicles from their automobile insurance policies and/or cancel the policies, in order to increase a year-end bonus. ([FINRA Case #2014043273101](#))

**Thomas Jackson Phillips Jr.** ([CRD #2915516](#), Austin, Texas) submitted an Offer of Settlement in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the allegations, Phillips consented to the sanctions and to the entry of findings

that he willfully failed to timely disclose a felony charge on his Form U4. The findings stated that Phillips made a false attestation to his member firm on an annual compliance questionnaire in which he failed to disclose the felony charge.

The suspension is in effect from December 5, 2016, through February 4, 2017. ([FINRA Case #2014042755301](#))

**Seila Phlong** ([CRD #4842392](#), Atlanta, Georgia) submitted an AWC in which he was fined \$5,000, suspended from association with any FINRA member in any principal capacity for three months, and required to requalify as a Municipal Securities Principal (Series 53), General Securities Sales Supervisor (Series 9), and/or Registered Options Principal (Series 4) prior to reassociation with any FINRA member firm in that capacity. Without admitting or denying the findings, Phlong consented to the sanctions and to the entry of findings that as his member firm's designated principal for review and approval of trading, despite a lack of prior supervisory experience, Phlong failed to establish, maintain, and enforce supervisory systems and procedures reasonably designed to provide for the proper review and approval of daily orders. The findings stated that the firm's CCO did not give him any instructions as to his duties, Phlong did not read the firm's WSPs, and he was unaware of what his role or responsibilities as a principal were. Although he was required to do so by the firm's WSPs, Phlong failed to conduct any principal review or approval of the firm's order tickets or daily trade blotters from his designation as principal until the firm ceased trading.

The suspension is in effect from December 5, 2016, through March 4, 2017. ([FINRA Case #2015047037402](#))

**Glen Joseph Rauch** ([CRD #3102961](#), Syosset, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Rauch consented to the sanction and to the entry of findings that he repeatedly sent abusive, obscene, intimidating and threatening messages to a principal of his member firm, who was also the firm's chief operating officer (COO), chief financial officer (CFO), and financial and operations principal (FINOP). The findings stated that Rauch's harassing and threatening messages stopped only after the principal obtained a restraining order against Rauch due to the threats, and after a police officer warned Rauch that further contact with the principal would violate the restraining order.

The findings also stated that Rauch committed an array of serious sales practice violations that demonstrated dishonesty, evasiveness and a disregard for FINRA rules, and caused customer losses. In particular, in a firm IRA of an unsophisticated senior investor of modest means, Rauch unsuitably concentrated the customer's account and recommended unsuitable options transactions. Rauch further falsely marked, or caused others to mismark, electronic order tickets for these transactions as unsolicited when he knew the transactions at issue were either solicited or unauthorized, in order to give the false impression that the investor was actively suggesting transactions, including some of the unsuitable transactions. The findings also included that in a second customer's account,

Rauch effected unauthorized transactions in securities and effected unsuitable options transactions. Rauch further falsely marked, or caused others to mismark, electronic order tickets for these transactions as unsolicited when he knew the transactions at issue were either solicited or unauthorized, in order to give the false impression that the investor was actively suggesting transactions, including some of the unsuitable transactions. FINRA found that by this conduct Rauch also caused the firm to maintain inaccurate books and records.

FINRA also found that that to mask his significant financial problems, Rauch willfully failed to disclose on his Form U4 an IRS tax lien and an offer in compromise. Rauch also willfully failed to timely disclose two state tax liens on his U4. In addition, FINRA determined that Rauch made a false statement to his firm in a quarterly compliance questionnaire with respect to the accuracy of his Form U4. ([FINRA Case #2014039358002](#))

**Christel Marie Sparks** ([CRD #2147336](#), Columbus, Ohio) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Sparks consented to the sanction and to the entry of findings that she willfully failed to update her Form U4 to disclose a bankruptcy petition within 30 days of filing the petition. The findings stated that when her member firm questioned her, Sparks claimed she previously disclosed the 2013 bankruptcy in an email to her firm's compliance department. The firm searched its email system to find any such email sent by or received from Sparks, and no email could be found. Following an interview with Sparks, the firm terminated her for violating company policies pertaining to honesty and keeping current on required Form U4 disclosures.

The findings also stated that during an on-the-record interview with FINRA, Sparks provided a purported copy of the alleged email to her firm compliance department, and testified under oath that, among other things, she sent the disclosure email to her firm's compliance department. The document Sparks provided to FINRA was a fabricated document, and Sparks' testimony pertaining to her alleged disclosure of the bankruptcy was false and misleading. ([FINRA Case #2014043840701](#))

**Roland Mikael Spjeldet** ([CRD #6474332](#), Broomfield, Colorado) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. Without admitting or denying the findings, Spjeldet consented to the sanctions and to the entry of findings that he had access to study materials and personal notes during a general securities representative (Series 7) examination. The findings stated that candidates taking the Series 7 exam are not permitted to bring, use, or have access to any study materials or personal notes during the exam.

The suspension is in effect from November 21, 2016, through May 20, 2018. ([FINRA Case #2016049444401](#))

**Diana Lee Stallone** ([CRD #1870327](#), Lakeville, Minnesota) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stallone consented to the sanction and to the entry of findings that she converted customer insurance premiums to her personal use without authority. The findings stated that Stallone received from insurance customers, and deposited into her insurance agency bank account, payments of insurance policy premiums totaling \$9,768. The payments were made in cash and by check. Stallone, however, remitted only \$6,033 of that amount for payment of the insurance policy premiums. Stallone intentionally converted the majority of the remaining \$3,735 of her insurance customers' funds to her personal use, without authority. Stallone used a portion of the remaining funds to satisfy other business expenses. ([FINRA Case #2016050333401](#))

**Jennifer Lynn Steele** ([CRD #2761110](#), Pinellas Park, Florida) submitted an AWC in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Steele consented to the sanctions and to the entry of findings that she failed to provide prior written notice to, and receive approval from, her member firm of an outside business activity for which she was the sole owner and managing member, and from which she had a reasonable expectation of compensation. The findings stated that the outside business activity was a limited liability corporation that had been formed for tax- and asset-protection purposes, and Steele received a salary and distributions from the outside business. The firm's WSPs required registered representatives to provide prior written notice to the firm and to receive the firm's approval for all outside business activities.

The suspension was in effect from December 5, 2016, through January 4, 2017. ([FINRA Case #2014040343702](#))

**Grant P. Talbert** ([CRD #5531532](#), Lexington Kentucky) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Talbert consented to the sanctions and to the entry of findings that he engaged in an outside business activity without providing appropriate prior notice to his member firm. The findings stated that Talbert entered into a solicitor's agreement with a registered investment advisory firm in which he earned a percentage of the advisory fees collected from referred clients.

The suspension is in effect from November 21, 2016, through February 20, 2017. ([FINRA Case #2016049229001](#))

**Emily Michelle Thompson** ([CRD #4217116](#), Bryan, Ohio) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Thompson consented to the sanction and to the entry of findings that she refused to provide FINRA with requested documents and information during the course of an investigation into allegations that she engaged in unauthorized trading and misrepresentation. ([FINRA Case #2015045962901](#))

**Karen Tucker (CRD #5951511, El Paso, Texas)** submitted an AWC in which she was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, Tucker consented to the sanctions and to the entry of findings that she was associated with a member firm despite being subject to statutory disqualification. The findings stated that while associated with the firm, Tucker was arrested and then charged with certain drug-related felonies. Tucker pled guilty to one felony count and was sentenced. As a result of Tucker's felony conviction, she became subject to statutory disqualification from association with a FINRA member. Contrary to firm policy, Tucker failed to notify the firm of her arrest, indictment, guilty plea and conviction. By failing to disclose her felony conviction, Tucker caused the firm to remain associated with a person subject to statutory disqualification for more than two years.

The suspension is in effect from November 21, 2016, through May 20, 2017. ([FINRA Case #2016048831001](#))

**Marian Gaye Wahrmond aka Marian Cox (CRD #6136488, Harper, Texas)** submitted an AWC in which she was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 45 days. Without admitting or denying the findings, Wahrmond consented to the sanctions and to the entry of findings that she made false statements in check request forms generated by her member firm's internal record keeping systems. The findings stated that an imposter posing as a firm customer sent a series of emails to Wahrmond requesting the issuance of third-party checks from the customer's accounts. Through the firm's internal systems, Wahrmond requested the issuance of third-party checks payable from the customer's accounts in the various requested amounts. Wahrmond falsely represented and falsely attested on the request forms that she verbally confirmed the check requests with the customer, when in fact, she had not. In connection with three of the checks, Wahrmond entered the reason for the request as bill/loan payment, although the imposter provided no such reason in the email requests. Following Wahrmond's entry of the check requests into the firm's internal system, the firm issued checks payable to the third parties the imposter identified. By making these false statements in the check request forms generated by the firm's internal record keeping systems, Wahrmond also caused her firm to maintain false books and records.

The suspension is in effect from December 5, 2016, through January 18, 2017. ([FINRA Case #2015044203501](#))

**Bruce Michael Weinstein (CRD #1573055, Boca Raton, Florida)** submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Weinstein consented to the sanction and to the entry of findings that he converted \$2,605 of his member firm's funds by submitting false expense reports and accepting reimbursements from his firm for the ineligible expenses. The findings



stated that each of the expense reports submitted falsely represented that Weinstein and multiple customers and potential customers had attended football games using tickets for which Weinstein sought reimbursement. In fact, Weinstein had sold the tickets to third parties, and neither he nor any customers or potential customers had attended the games. By knowingly submitting false expense reports, Weinstein caused his firm to maintain inaccurate books and records. ([FINRA Case #2014043863301](#))

**Timothy Alan Wright** ([CRD #4714431](#), Wilmington, North Carolina) submitted an AWC in which he was suspended from association with any FINRA member in any capacity for four months. In light of Wright's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Wright consented to the sanction and to the entry of findings that he willfully failed to timely disclose on his Form U4 five tax liens the IRS and the State of North Carolina had filed against him.

The suspension is in effect from November 7, 2016, through March 6, 2017. ([FINRA Case #2015046489801](#))

**Eric John Zebrauskas** ([CRD #4391319](#), Cicero, Indiana) submitted an AWC 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, Zebrauskas consented to the sanctions and to the entry of findings that he failed to provide prior written notice to, or receive written approval from, his member firm to engage in an outside business activity as a life insurance agent, for which he received approximately \$40,000 in income during his firm employment.

The suspension was in effect from December 5, 2016, through January 3, 2017. ([FINRA Case #2013036613701](#))

## Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC as of November 30, 2016. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decisions. Initial decisions where the time for appeal has not yet expired will be reported in future issues of *FINRA Disciplinary and Other Actions*.

**Michael Todd Clements** ([CRD #1702071](#), Wellington, Florida) was barred from association with any FINRA member in any capacity and ordered to offer rescission, plus interest, to customers of their equity interests at the original purchase price (minus any dividends or interest payments received). The sanctions are based on findings that Clements made material misrepresentations and omissions to customers of his member firm in connection with their purchases of equity interest in the firm. The findings stated that the omitted information was material, as a reasonable investor would want to know that the firm had

recently experienced financial difficulties so serious that the firm was, for a time, unable to conduct a securities business due to insufficient net capital and that it teetered on the edge of another shut down of that business. Such information bears significantly on the likely profitability of the investment. As a result of his conduct, Clements willfully violated Section 10(b) and Rule 10b-5 of the Exchange Act, and violated FINRA Rule 2020. Clements also failed in numerous respects to reasonably supervise the firm and the capital-raising activities of a holding company the firm owned. Clements not only failed in numerous respects to adequately supervise the capital raises and a registered representative, but was himself an active participant in the underlying wrongdoing committed against customers. Clements also ignored red flags that the registered representative was engaged in an equity raise for the holding company and was misusing investor funds. The hearing panel dismissed the charge that Clements aided and abetted a registered representative's fraud in the sale of the equity interests.

This matter has been appealed to the NAC and the sanctions are not in effect pending review. ([FINRA Case #2015044960501](#))

**Newport Coast Securities, Inc. ([CRD #16944](#), New York, New York), Andre Vincent LaBarbera ([CRD #2072370](#), Dix Hills, New York) and Douglas Anthony Leone ([CRD #2453784](#), Sandy Hook, Connecticut).** The firm was expelled from FINRA membership and fined \$1,000,000, less any amounts that it can demonstrate it has paid in restitution; and ordered to pay \$853,617.04, jointly and severally, plus interest, in restitution to customers. LaBarbera fined \$125,000, less any amounts that he can demonstrate he has paid in restitution; barred from association with any FINRA member in any capacity; and ordered to pay \$86,940.35, jointly and severally, plus interest, in restitution to customers. Leone was fined \$400,000, less any amounts that he can demonstrate he has paid in restitution; barred from association with any FINRA member in any capacity; and ordered to pay \$325,853, jointly and severally, plus interest, in restitution to customers.

The sanctions were based on the findings that LaBarbera and Leone, and the firm, through LaBarbera, Leone and three other registered representatives, recommended quantitatively unsuitable trading. The findings stated that the trading activity in all of the customer accounts at issue was excessive and inconsistent with the customers' financial circumstances and investment objectives. The findings also stated that LaBarbera and Leone, and the firm, through LaBarbera and Leone and the three other registered representatives, churned customer accounts in violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, NASD Rule 2120 and FINRA Rule 2020. In all of the customer accounts at issue, the benefits to LaBarbera, Leone and the other registered representatives far outstripped any likely return to the customers from the trading, making it clear that LaBarbera, Leone and the other registered representatives were trading for their own benefit without regard to the customers' interests. Accordingly, LaBarbera and Leone acted in willful and reckless disregard of the customers' interest. The findings also included that

LaBarbera, and the firm, through LaBarbera and two other registered representatives, made qualitatively unsuitable recommendations of transactions involving leveraged or inverse exchange traded products to customers.

FINRA found that the firm failed to reasonably respond to evidence of red flags indicating possible quantitatively unsuitable trading in, and churning of, customer accounts by its registered representatives, and accordingly failed to properly supervise its registered representatives. FINRA also found that Leone gave a customer inaccurate information overstating the value of the customer's account on five occasions. The hearing panel dismissed the charges that LaBarbera mismarked certain solicited trades as unsolicited and that the firm failed to properly supervise the sale of exchange-traded products.

This matter has been appealed to the NAC and the sanctions are not in effect pending review. ([FINRA Case #2012030564701](#))

**Richard Allen Riemer Jr. ([CRD #1721245](#), Clifton, New Jersey)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The sanctions were based on findings that Riemer willfully failed to timely amend his Form U4 to disclose a federal tax lien and a Chapter 13 bankruptcy petition he filed, and willfully failed to disclose a second federal tax lien. The findings stated that Riemer falsely represented to his member firm in annual compliance certifications that he did not have any judgment liens against him and had not filed a bankruptcy petition. Riemer also submitted an annual certification in which he falsely stated that he had not filed for bankruptcy since submitting his last annual certification for the preceding year.

This matter has been appealed to the NAC and the sanctions are not in effect pending review. ([FINRA Case #2013038986001](#))

## 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.

**Dawn Bennett ([CRD #1567051](#), Chevy Chase, Maryland)** was named a respondent in a FINRA complaint alleging that she failed to provide FINRA with requested information and documentation in an investigation involving potentially serious violations, such as conversion, fraud and private securities transactions. The complaint alleges that Bennett also failed to appear and provide FINRA with testimony. ([FINRA Case #2015047682402](#))

**Robert Blake Ellender** ([CRD #2345532](#), Baton Rouge, Louisiana) was named a respondent in a FINRA complaint alleging that he failed to timely respond to multiple FINRA requests for documents and information pertaining to allegations disclosed in his Form U5, and subsequently completely failed to respond to additional FINRA requests for information and documents. ([FINRA Case #2015045846502](#))

**Clay Emerson Hoffman** ([CRD #4371162](#), Brunswick, Georgia) was named a respondent in a FINRA complaint alleging that he failed to respond to multiple FINRA requests for documents and information related to an investigation. ([FINRA Case #2015045207702](#))

**Legend Securities, Inc.** ([CRD #44952](#), New York, New York), **Michael Salvatore Stanton** ([CRD #1448072](#), Warren, New Jersey) and **Hank Mark Werner** ([CRD #1615495](#), Northport, New York) were named respondents in an amended FINRA complaint alleging that Werner churned and excessively traded each of a customer's three accounts, charging more than \$243,000 in commissions and fees, and causing the customer net losses of nearly \$184,000, within just over three years. The complaint alleges that Werner willfully violated Section 10(b) and Rule 10b-5 of the Securities Exchange Act, and FINRA Rule 2020. The complaint also alleges that Werner recommended an unsuitable variable annuity exchange to the customer, without having a reasonable basis to believe that the transaction was suitable. The firm and Werner received a commission of \$11,799.81 on the sale, of which \$10,030 was paid to Werner. The complaint further alleges that the firm failed to establish, maintain and enforce a reasonable supervisory system by failing to enforce its WSPs for heightened supervision of Werner. The firm failed to prepare a plan of heightened supervision, and it failed to place Werner on heightened supervision at any time during his association with the firm despite meeting its criteria for heightened supervision. In addition, the complaint alleges that the firm and Stanton failed to establish, maintain and enforce a reasonable supervisory system, and failed to enforce its WSPs, to prevent Werner from churning and excessively trading the customer's brokerage accounts. The firm and Stanton failed to adequately investigate red flags demonstrating that Werner was churning the customer's accounts. The firm and Stanton also failed to adequately investigate, or simply ignored, that Werner engaged in aggressive, "in-and-out" trading, repeatedly purchasing securities and then selling them after relatively short holding periods to purchase other securities, for no apparent reason. Such in-and-out trading is a hallmark of excessive trading and churning. ([FINRA Case #2015048048801](#))

**Lek Securities Corporation** ([CRD #33135](#), New York, New York) was named a respondent in a FINRA complaint alleging egregious and systemic supervisory violations the firm committed for a period of more than four years. The complaint alleges that the firm was put on notice of problems with its supervisory procedures, but failed to adequately address them. The firm's supervisory procedures, including its WSPs, were inadequate and failed to provide for the minimum requirements for adequate supervision in numerous areas. The firm failed to evidence that it performed supervisory reviews in numerous areas, including in many of the same areas in which its supervisory procedures were deficient.

The complaint also alleges that as a result of the firm's inaccurate reporting, the FNTRF contained inaccurate information. The complaint further alleges that as a result of the firm's failure to fully and accurately report information to OATS, OATS contained inaccurate information. In addition, the complaint alleges that the firm failed to maintain accurate books and records, including order tickets, customer confirmations, and outside brokerage account statements for employees and the wife of an employee. Moreover, the complaint alleges that the firm failed to provide to each customer FINRA identified with a disclosure statement highlighting the risks specific to extended-hours trading prior to executing the order in the extended hours. Furthermore, the complaint alleges that FINRA identified instances in which the firm marked a sale long when the customer's position was short. As a result, the firm willfully violated Rule 200(g) of Regulation SHO. The complaint also alleges that FINRA identified occasions in which the firm accepted a short sale order on behalf of a customer without borrowing the security, entering into a bona fide arrangement to borrow the security, or having reasonable grounds to believe that the security could be borrowed so it could be delivered on the date delivery is due, and documenting its compliance with Rule 203(b)(1) of Regulation SHO. As a result, the firm willfully violated Rule 203(b)(1) of Regulation SHO. The complaint further alleges that FINRA requested the firm to provide it with the annual notice provided to its customers pursuant to Rule 606 of Regulation NMS. The firm was unable to produce copies of written notifications, or any evidence that written notifications were sent to its customers, that the quarterly order routing reports were available, free of charge, upon request from the customer. In addition, the firm's published reports for the 4th Quarter 2014 failed to include the percentages of total non-directed orders for the section that were market orders, limit orders and other reports. As a result, the firm willfully violated Rule 606 of Regulation NMS. In addition, the complaint alleges that the firm failed to disclose its capacity on customer confirmations it sent to customers, failed to include the average price disclosure, and failed to identify the customer on the disclosure. As a result, the firm willfully violated Section 10(b) of the Exchange Act and Rule 10b-10. Moreover, the complaint alleges that the firm failed to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and FINRA rules. The firm revised its WSPs; however, the revised WSPs failed to adequately address the relevant deficiencies. Furthermore, the complaint alleges that the firm's supervisory systems did not provide for supervision reasonably designed to achieve compliance with Rules 611(a)(1) and (2) and 611(c) of Regulation NMS. As a result, the firm willfully violated Rules 611(a)(1) and (2) and 611(c) of Regulation NMS. ([FINRA Case #2010021595603](#))

**Michael Jean-Paul Mason** ([CRD #4938877](#), Cordova, Tennessee) was named a respondent in a FINRA complaint alleging that he failed to appear for FINRA on-the-record testimony pursuant to an investigation into the circumstances of his termination from a member firm set forth in his Form U5. ([FINRA Case #2015044198601](#))

**Stanley Clayton Niekras** ([CRD #2417486](#), Watertown, New York) was named a respondent in a FINRA complaint alleging that he misrepresented to his elderly customers, a husband and wife, that he was entitled to more than \$70,000 for purported estate-planning and financial-planning services. The complaint alleges that although Niekras did not have a financial-planning or investment advisory agreement with these elderly customers, he presented them with bills claiming that he had spent hundreds of hours over a four-year period working on his customers' financial future, and that he was entitled to retroactive compensation at a rate of \$250 per hour. At the time Niekras presented these bills to his elderly customers, Niekras believed that they, who were 90 and 91 years of age, respectively, were declining both physically and mentally. Niekras knew, too, that he was not entitled to estate-planning or financial-planning fees from them. The complaint also alleges that the customers gifted approximately \$500,000 in cash and securities to each of their three children. These gifted assets were transferred into brokerage accounts that Niekras opened for each of customers' children at his member firm. Niekras recommended that the customers' children each purchase a particular variable annuity with the assets they had received from their parents. Niekras misrepresented to the customers' children that they would not pay commissions if they purchased the variable annuities he recommended. Niekras anticipated that the sales of variable annuities to the customers' children would result in about \$75,000 in commissions to Niekras. Ultimately, the children declined to purchase the variable annuities (or any other products) that Niekras recommended. Thereafter, Niekras presented the customers with the bills for estate planning and financial planning. Niekras admits that the bills he presented to the customers were intended to replace the commissions he would have received from the sale of variable annuities he recommended to their children. Niekras did not show his bills to anyone at his firm or otherwise seek the firm's approval to charge these elderly customers for purported estate-planning or financial-planning services. The bills that Niekras created violated the firm's procedures. ([FINRA Case #2013037401001](#))

**Noble Financial Capital Markets** ([CRD #15768](#), Boca Raton, Florida) and **Nicolaas Petrus Pronk** ([CRD #1726101](#), Boca Raton, Florida) were named respondents in a FINRA complaint alleging that they solicited customers to purchase nearly a million shares of a company's common stock without disclosing the firm's multiple and material conflicts of interest. The complaint alleges that the firm and Pronk knowingly or recklessly failed to inform the customers of the firm's Advisory and Warrant Agreements with the company and the compensation it received and anticipated receiving thereunder. In addition, the firm and Pronk knowingly or recklessly failed to inform the customers of additional compensation the firm promised its registered representatives for promoting, recommending and selling the company's stock, and of the firm's speculative arbitrage strategy in the company's securities that created a financial incentive for the firm and Pronk to recommend the company's stock. As a result of their conduct, the firm and Pronk willfully violated Section 10(b) of the Exchange Act and Rules 10b-5(a), (b) and (c), and violated FINRA Rule 2020. The complaint also alleges that the firm effected short sales of the company's stock without

finding either a borrow or locate for the short sales, in willful violation of Rule 203(b)(1) of Regulation SHO promulgated under the Exchange Act. The firm could not properly rely on the bona fide market-maker exemption under Rule 203(b)(2) of Regulation SHO for those transactions effected while it was engaging in a speculative arbitrage strategy. The complaint further alleges that the firm issued research reports that failed to disclose that it had a current client relationship with the company, and it expected to receive or intended to seek compensation from its investment-banking activities with the company in the three months that followed the issuance of the research reports. ([FINRA Case #2013035740901](#))

**James Larkin Powers (CRD #2450818, Ridgewood, New Jersey)** was named a respondent in a FINRA complaint alleging that while employed at his member firm as an equity trader, he used his control over firm trading accounts to create fictitious trades between a firm trading account and his personal account for his own personal profit, convert customer funds, cause the firm to create trade confirmations that misrepresented the prices of customers' trades, and hide a loss he incurred in a firm trading account by repeatedly entering unauthorized, fictitious customer trades and subsequently cancelling them before settlement. The complaint alleges that Powers was authorized to use firm trading accounts to facilitate trading on behalf of clients. Powers abused his authorization to trade between the firm's trading account and his own personal account in transactions that had no business purpose and were conducted only to capture trading profits in Powers' own account. Through this fraudulent scheme, Powers guaranteed himself trading profits at the expense of the firm and received at least approximately \$388,133 in illicit trading profits.

The complaint also alleges that Powers converted customer funds by abusing the firm's trading accounts. After Powers conducted a trade on behalf of customers, he provided them a lower price than the actual execution price and then booked fictitious trades to convert the customers' remaining funds for his own profit. The complaint further alleges that Powers engaged in a fraudulent scheme and made material misrepresentations and omissions in connection with the purchase and sale of securities. Powers made material misstatements and omissions when, among other things, he reported the executed trades to his customers who did not receive the price that they were due for their securities transactions, and failed to inform the customers that the prices that they received were not accurate based on the corresponding street-side execution with the market.

In addition, the complaint alleges that Powers placed fictitious trades to disguise a losing position he held in one of his firm's accounts. After shorting 1,500 shares of a company, a position that became negative, Powers placed a series of unauthorized sales of the company for customer accounts into the firm's account to hide his short position. None of the customers authorized Powers to sell shares of the company's securities in any amount on or near the corresponding trade dates, and therefore Powers made each of the transactions without authorization or customer consent. Moreover, the complaint alleges that by executing and booking these unauthorized trades that he knew were not based on customer orders in the firm's trade booking system, Powers caused the firm to create



false trade confirmations and to include false orders in the firm's trading blotters and order entry system. As a result of his conduct, Powers willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and FINRA Rules 2010 and 2020. ([FINRA Case #2014041985401](#))

**William Carroll Swanner** ([CRD #501268](#), West Memphis, Arkansas) was named a respondent in a FINRA complaint alleging that he willfully failed to timely amend his Form U4 to disclose his unsatisfied federal and state tax liens. ([FINRA Case #2014042122001](#))

**Tracy Rae Turner** ([CRD #1385745](#), San Marcos, California) was named a respondent in a FINRA complaint alleging that he failed to give prior written notice to, and receive prior written permission from, his member firm before participating in private securities transactions. The complaint alleges that Turner offered and sold interests to investors totaling approximately \$4.1 million; and that for successfully soliciting these investments, he received approximately \$270,000 in compensation. The complaint also alleges that to promote the interests, Turner created and made publicly available online an offering memorandum concerning the offer of one of the interests that failed to provide a sound basis for evaluating the investment, and made promissory and unwarranted statements and claims. In addition, Turner wrote an accompanying message to the offering memorandum, also publicly available online, that failed to provide a sound basis for evaluating the investment and included a promissory and unwarranted statement. The complaint further alleges that the offering memorandum and the accompanying message were not approved by a registered firm principal and were not filed with FINRA prior to their dissemination. ([FINRA Case #2014040338401](#))

**Richard Oliver White** ([CRD #3147238](#), Charlotte, North Carolina) was named a respondent in a FINRA complaint alleging that he made cash deposits totaling \$77,560 that were structured in amounts just below \$10,000 and deposited in two separate bank accounts in an attempt to evade the reporting requirements of the Bank Secrecy Act. The complaint alleges that as part of White's annual training requirements, he was required to complete his member firm's mandated AML training module. Each year from 2010 through 2014, White certified that he completed the firm's AML training module, including in 2013 and 2014, when the training module included the Bank Secrecy Act reporting requirements for the firm. ([FINRA Case #2015045254501](#))

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**Decision Issued as Letter of Caution**

OHO issued the following decision, which was issued to serve as a Letter of Caution.

**Melissa Manuel Velasquez (CRD #5312952)**  
Santa Monica, California  
(November 28, 2016)  
FINRA Case #2015044379701

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**Decision Dismissed**

OHO issued the following decision, which was appealed to the NAC. The findings made by the Hearing Panel were not affirmed, and the NAC has subsequently ordered that the decision be dismissed.

**Robert Earl Holaday (CRD #1043463)**  
La Mesa, California  
(November 7, 2016)  
FINRA Case #2012032519101

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

**Orion Trading, LLC (CRD #43932)**  
Winter Park, Florida  
(November 7, 2016)

**Rothschild Lieberman LLC (CRD #10030)**  
New York, New York  
(November 23, 2016)

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**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.)

**Royal Securities Company (CRD #10702)**  
Grandville, Michigan  
(December 9, 2016 – December 22, 2016)

**Royal Securities Company (CRD #10702)**  
Grandville, Michigan  
(December 12, 2016 – December 22, 2016)

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**Firm Suspended for Failure to Pay 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.)

**Ascendant Capital Markets LLC (CRD #152912)**  
Irvine, California  
(November 28, 2016 – November 29, 2016)

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**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.)

**Richard John Fusari (CRD #1018500)**  
Palm Harbor, Florida  
(November 2, 2016)  
FINRA Case #2013035517601

**Paolo Franca Iida (CRD #6020324)**  
New York, New York  
(November 19, 2016)  
FINRA Case #2012033351801

**Jeffrey Anthony Laboranti (CRD #5491330)**  
Moscow, Pennsylvania  
(November 19, 2016)  
FINRA Case #2015046379801

**Anthony Uzoma Ogbonna (CRD #2771427)**  
Blue Island, Illinois  
(November 19, 2016)  
FINRA Case #2014040437703

**Christopher Mark Schonsheck (CRD #2303093)**  
Kettering, Ohio  
(November 19, 2016)  
FINRA Case #2014041041801

**Harvey Britton Vaughn Jr. (CRD #500700)**  
Austin, Texas  
(November 19, 2016)  
FINRA Case #2015045409001

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**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.)

**Debbie Sue Arnold (CRD #4192536)**  
Albany, Ohio  
(November 22, 2016)  
FINRA Case #2016049819601

**Bridgett Elizabeth Beard (CRD #6481178)**  
Bamberg, South Carolina  
(November 29, 2016)  
FINRA Case #2016049477302

**Anthony Joseph Calascione (CRD #2869991)**  
Staten Island, New York  
(November 18, 2016)  
FINRA Case #2015048287301

**Samuel David Campos (CRD #6054829)**  
Forney, Texas  
(November 28, 2016)  
FINRA Case #2016050778401

**Ladonna Carlisle (CRD #6572037)**  
Gilbertown, Alabama  
(November 18, 2016)  
FINRA Case #2016049526901

**Nichele Alexis Cavins (CRD #6419081)**  
Marietta, Georgia  
(November 29, 2016)  
FINRA Case #2016050084801

**Shannon Kathleen Daniels (CRD #4606771)**  
Cape Girardeau, Missouri  
(November 18, 2016)  
FINRA Case #2016050764201

**Daniel Gerard Derepentigny (CRD #1887112)**  
Lincoln, California  
(November 18, 2016)  
FINRA Case #2016048766501

**Jonathan Roth Ellis (CRD #6550512)**  
Jamaica, New York  
(November 22, 2016)  
FINRA Case #2016050122101

**Michael Joseph Farinella (CRD #5297170)**  
Florissant, Missouri  
(November 21, 2016)  
FINRA Case #2016049705601

**Ricky Reid Harris Jr. (CRD #6161045)**  
Dallas, Texas  
(November 22, 2016)  
FINRA Case #2016049925201

**Oded Joseph Jacobowitz (CRD #2809625)**  
Lawrence, New York  
(November 7, 2016)  
FINRA Case #2015047753801

**Erik Scott Jacobsen (CRD #5427273)**  
Dillon, Colorado  
(November 29, 2016)  
FINRA Case #2016050057101

**Andrew Scott Jensen (CRD #5804773)**

Albany, Georgia  
(November 21, 2016)  
FINRA Case #2016049110601

**Tedla Ebou Khan (CRD #5121140)**

Wanchai, Hong Kong  
(November 28, 2016)  
FINRA Case #2016049826701

**Bilal Samouri McClendon (CRD #2821801)**

Bronx, New York  
(November 21, 2016)  
FINRA Case #2015045048403

**Kevin Michael Murphy (CRD #4020785)**

Phoenix, Arizona  
(July 18, 2016 – November 9, 2016)  
FINRA Case #2016048549301

**Christopher Vincent Paul (CRD #3226861)**

Staten Island, New York  
(November 14, 2016)  
FINRA Case #2015047312301

**Jennifer Rainwater (CRD #6485971)**

Campbell, Missouri  
(November 18, 2016)  
FINRA Case #2016050022901

**Theodore Gerald Rothman (CRD #405741)**

Newtown, Pennsylvania  
(November 28, 2016)  
FINRA Case #2016050036201

**Craig Clifford Ruschmeyer (CRD #1454967)**

Cottage Grove, Minnesota  
(November 14, 2016)  
FINRA Case #2015047287501

**David Aaron Seigerman (CRD #2200011)**

Morristown, New Jersey  
(November 1, 2016)  
FINRA Case #2016050466901

**David Garrett Shaw (CRD #4146204)**

Levittown, Pennsylvania  
(November 21, 2016)  
FINRA Case #2016049773101

**Ladd W. Tanner (CRD #2157829)**

Sandy, Utah  
(November 18, 2016)  
FINRA Case #2016048763201

**Dang Hung To (CRD #6493020)**

Elk Grove, California  
(November 29, 2016)  
FINRA Case #2016049654501

**William Upchurch Jr. (CRD #1195846)**

Hyattsville, Maryland  
(November 1, 2016)  
FINRA Case #2015047841901

**Michael Vetere (CRD #2476936)**

Bronx, New York  
(November 28, 2016)  
FINRA Case #2016049002501

**Kuana Nicole Vick (CRD #5851742)**

Fayetteville, North Carolina  
(November 28, 2016)  
FINRA Case #2016050589001

**Larry Phillip Vogel (CRD #1350048)**

Cohocton, New York  
(November 25, 2016)  
FINRA Case #2015048174601

**William Christopher Wade (CRD #4947224)**

Fairhope, Alabama  
(November 7, 2016)  
FINRA Case #2016049655201

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**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.)

**Joseph Albert Ambrosio (CRD #5732488)**  
Staten Island, New York  
(September 9, 2016 – November 9, 2016)  
FINRA Case #2015047839901

**Kristen Denys Bartley (CRD #5306048)**  
New Albany, Ohio  
(August 8, 2016 – November 11, 2016)  
FINRA Case #2016048547001

**Jasper Eugene Boykin Jr. (CRD #3141703)**  
Atlanta, Georgia  
(September 2, 2016 – November 22, 2016)  
FINRA Case #2016049508601

**Kathy Campos (CRD #6091781)**  
Kearny, New Jersey  
(November 28, 2016)  
FINRA Case #2016049047401

**Mikhail Filshinskiy (CRD #4351030)**  
Brooklyn, New York  
(July 5, 2016 – November 9, 2016)  
FINRA Case #2015048323901

**Louis Vincent Fontanella Jr. (CRD #3128297)**  
Wharton, New Jersey  
(November 28, 2016)  
FINRA Case #2016050353101

**Yohandy Gonzalez (CRD #6298112)**  
Pembroke Pines, Florida  
(August 29, 2016 – November 17, 2016)  
FINRA Case #2016049683301

**Michael P. Gopie (CRD #5758354)**  
Flushing, New York  
(September 9, 2016 – November 17, 2016)  
FINRA Case #2016049655801

**Dennis Dewain Hern (CRD #5272816)**  
Kapolei, Hawaii  
(November 7, 2016)  
FINRA Case #2016050283202

**Bao Tran Dinh Hoang (CRD #6015572)**  
San Jose, California  
(November 10, 2016)  
FINRA Case #2016049825101

**Christopher Wayne Hunt II (CRD #6625350)**  
Jacksonville, Florida  
(November 7, 2016)  
FINRA Case #2016049804302

**Kyle Ryan Kurtz (CRD #4212669)**  
Bay City, Michigan  
(November 25, 2016)  
FINRA Case #2016049940201

**Reginald Lewis McCarthy (CRD #1089052)**  
Orlando, Florida  
(November 18, 2016)  
FINRA Case #2016049521901/FPI160012

**Caleb Layton Morris (CRD #5440363)**  
Tulsa, Oklahoma  
(November 7, 2016)  
FINRA Case #2016050251802

**Brian Patrick Murphy (CRD #2953503)**  
Hainesport, New Jersey  
(November 21, 2016)  
FINRA Case #2016050677201

**Wesley Marion Oler IV (CRD #2631304)**  
Cos Cob, Connecticut  
(November 25, 2016)  
FINRA Case #2016048620401

**Raymond John Pirrello Jr. (CRD #2782019)**  
 Sparta, New Jersey  
 (August 4, 2016 – November 3, 2016)  
 FINRA Case #2016050071901

**Richard Byron Raff (CRD #4064280)**  
 Brandon, Mississippi  
 (November 28, 2016)  
 FINRA Case #2016051489901

**Gary Harland Sisler Jr. (CRD #5379652)**  
 New York, New York  
 (September 12, 2016 – November 22, 2016)  
 FINRA Case #2016049663901

**Jay Steven Sutherland (CRD #1218484)**  
 Indian Harbour Beach, Florida  
 (November 4, 2016)  
 FINRA Case #2015044457701

**Quyen Trong Tran (CRD #6126452)**  
 Rosemead, California  
 (September 19, 2016 – November 17, 2016)  
 FINRA Case #2016050041201

**Joe Don Treece (CRD #2925735)**  
 Rogers, Arkansas  
 (November 14, 2016)  
 FINRA Case #2015048160501

**Robert James Wodicker (CRD #2336465)**  
 St. Louis, Missouri  
 (November 14, 2016)  
 FINRA Case #2015047039301

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**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.)

**James Patrick Acosta (CRD #4440729)**  
 Belmar, New Jersey  
 (November 18, 2016)  
 FINRA Arbitration Case #13-03379

**Terrence Daniels (CRD #1790559)**  
 Hempstead, New York  
 (November 18, 2016)  
 FINRA Arbitration Case #14-00106

**Darnell Anthony Deans (CRD #2200059)**  
 Jersey City, New Jersey  
 (November 1, 2016)  
 FINRA Arbitration Case #15-00607

**Barbara Lucille Desiderio (CRD #2080713)**  
 East Windsor, New Jersey  
 (November 29, 2016)  
 FINRA Arbitration Case #16-00351

**Joseph Ellison (CRD #2300049)**  
 Bronx, New York  
 (November 17, 2016)  
 FINRA Arbitration Case #12-02244

**Niaz Elmazi (CRD #2992689)**  
 Brooklyn, New York  
 (November 29, 2016)  
 FINRA Arbitration Case #16-00351

**Brian Joseph Hagerman (CRD #2115892)**  
 New York, New York  
 (November 29, 2016)  
 FINRA Arbitration Case #16-00351

**Candice Joy Hutton (CRD #2733374)**  
 Lone Tree, Colorado  
 (April 25, 2012 – November 18, 2016)  
 FINRA Arbitration Case #11-02800

**Gregory Marcel Martino (CRD #703338)**  
 Harrison, New York  
 (November 2, 2016)  
 FINRA Arbitration Case #15-00607

**Jeffrey Allen Rehling (CRD #5391311)**

San Francisco, California

(November 15, 2016)

FINRA Arbitration Case #15-00851

**Keith Patrick Sequeira (CRD #3127528)**

Middletown, New Jersey

(November 18, 2016)

FINRA Case #20160510627/ARB160035

**Penne Wilson Stafford (CRD #1734207)**

Dallas, Texas

(November 10, 2016)

FINRA Arbitration Case #14-03806

**Vincent Evan Wilson (CRD #1933243)**

Centennial, Colorado

(November 16, 2016)

FINRA Arbitration Case #16-00721



## FINRA Fines Eight Firms a Total of \$6.2 Million for Supervisory Failures Related to Variable Annuity L-Shares

### Five Firms Ordered to Pay More than \$6 Million to Customers

FINRA fined eight firms, including VOYA Financial Advisors, five broker-dealer subsidiaries of Cetera Financial Group, Kestra Investment Services, LLC, and FTB Advisors, Inc., a total of \$6.2 million for failing to supervise sales of variable annuities (VAs). FINRA also ordered five of the firms to pay more than \$6 million to customers who purchased L-share variable annuities with potentially incompatible, complex and expensive long-term minimum-income and withdrawal riders.

FINRA imposed sanctions against the following firms.

- ▶ [VOYA Financial Advisors Inc.](#), of Des Moines, IA, was fined \$2.75 million.
- ▶ [Cetera Advisor Networks LLC](#) of El Segundo, CA, was fined \$750,000.
- ▶ [Cetera Financial Specialists LLC](#) of Schaumburg, IL, was fined \$350,000.
- ▶ [First Allied Securities, Inc.](#) of San Diego, CA, was fined \$950,000.
- ▶ [Summit Brokerage Services, Inc.](#) of Boca Raton, FL, was fined \$500,000.
- ▶ [VSR Financial Services, Inc.](#) of Overland Park, KS, was fined \$400,000.
- ▶ [Kestra Investment Services, LLC](#) of Austin, TX, was fined \$475,000.
- ▶ [FTB Advisors, Inc.](#) of Memphis, TN, was fined \$250,000.

FINRA ordered the firms to pay the following to investors.

- ▶ Voya was ordered to pay at least \$1.8 million to customers in this category.
- ▶ Cetera Advisors Networks, First Allied, Summit Brokerage Services and VSR were collectively ordered to pay customers at least \$4.5 million.

The L-share VAs at the heart of this action are complex investment products combining insurance and security features designed for short-term investors willing to pay higher fees in exchange for shorter surrender periods. L-shares also had the potential to pay greater compensation to the firms and registered representatives than more traditional share classes. Each of the firms in this action lacked an adequate system to supervise variable annuities with multiple share classes, and failed to provide its registered representatives and principals with reasonable guidance regarding the narrow class of customers for whom the costs and features of L-share variable annuities were suitable.

These failures were compounded by the fact that the short-surrender L-Shares were often sold with complex and expensive guaranteed income and withdrawal riders that provided

benefits only over longer holding periods.

FINRA found that VOYA and four of the Cetera Group firms failed to identify “red flags” of broad patterns of potentially unsuitable sales of this product combination.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, “The complexity and expense of variable annuities require exceptional diligence in the training and supervision of the representatives who sell them and of the sales themselves. When a firm cannot explain why a significant number of clients are paying up for the short-term flexibility of L-shares while at the same time buying riders that only have value over the long term, it is clear that these supervisory obligations are not being met.”

These actions also included additional violations by Voya, Cetera Advisors Networks, Cetera Financial Specialists and VSR for failure to monitor rates of variable annuity exchanges at their respective firms.

First Allied was further found to have failed in its supervision of the sale of structured products and non-traditional exchange-traded funds. Lastly, First Allied and Kestra permitted the use of consolidated statements by their registered representatives without proper oversight.

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

### **FINRA Sanctions Oppenheimer & Co. \$3.4 Million for Reporting Violations, Failing to Comply With Discovery Obligations in Arbitrations, and Other Supervisory Failures**

#### **\$1.85 Million Paid to Customers**

FINRA fined Oppenheimer & Co. Inc. \$1.575 million and ordered the firm to pay \$1.85 million to customers for failing to report required information to FINRA, failing to produce documents in discovery to customers who filed arbitrations, and for not applying applicable sales charge waivers to customers.

Brad Bennett, FINRA’s Executive Vice President and Chief of Enforcement, said, “It’s important for firms to ensure their supervisory programs are designed to comply with FINRA reporting requirements, and that their procedures provide adequate direction to their employees to make required filings. FINRA uses this information to identify and initiate investigations of firms and associated persons that pose a risk to investors.”

FINRA found that over a span of several years, Oppenheimer failed to timely report to FINRA more than 350 required filings including securities-related regulatory findings, disciplinary actions taken by Oppenheimer against its employees, and settlements of securities-related

arbitration and litigation claims. FINRA rules require firms to timely and accurately report required information, yet Oppenheimer's procedures did not provide direction to its employees on making these disclosures. On average, Oppenheimer made these filings more than four years late. Oppenheimer also failed to timely disclose that its then Anti-Money-Laundering Compliance Officer and another employee had received Wells notices from the Securities and Exchange Commission. Oppenheimer had revised its supervisory procedures as a result of a prior FINRA investigation but failed to adopt adequate procedures that addressed a specific obligation to report regulatory events involving its employees.

In addition, FINRA found that between 2010 and 2013, Oppenheimer failed to produce relevant documents during discovery to seven arbitration claimants who alleged Oppenheimer failed to supervise former registered representative Mark Hotton. Oppenheimer failed to provide spreadsheets showing that Mark Hotton had excessively traded multiple customer accounts. Oppenheimer has paid more than \$6 million to resolve customer arbitration claims related to its supervision of Hotton. Additionally, FINRA had previously [ordered](#) Oppenheimer to pay \$1.25 million in restitution to 22 additional customers who suffered losses but had not filed arbitration claims. In today's action, FINRA is ordering Oppenheimer to provide the seven claimants with copies of the respective documents that were not produced, and payments totaling more than \$700,000.

FINRA also found that Oppenheimer failed to reasonably supervise the application of sales charge waivers to eligible mutual fund sales. The firm relied on its financial advisors to determine the applicability of sales charge waivers, but failed to maintain adequate written policies or procedures to assist financial advisors in making this determination. As a result of today's action, Oppenheimer has paid eligible customers \$1.14 million in remediation to customers who qualified for, but did not receive, applicable mutual fund sales charge waivers.

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

### **FINRA Fines VALIC Financial Advisors, Inc. \$1.75 Million for Failure to Prevent Conflicts of Interest in its Compensation Policy and for Other Supervisory Failures Related to Variable Annuity Sales**

FINRA fined Houston-based VALIC Financial Advisors, Inc. (VFA), a total of \$1.75 million for failing to identify and reasonably address certain conflicts of interest in the firm's compensation policy for instances when customers elected to move assets out of their VALIC variable annuities (VA), many of which were held in retirement plan accounts. The firm also failed to adequately supervise its VA business, including the sale of VAs with multiple share classes.

FINRA found that VFA failed to have a reasonable system to address and review the conflict of interest created by its compensation policy. From October 2011 through October 2014, VFA created a conflict of interest by providing registered representatives a financial incentive to recommend that customers move their funds from VALIC variable annuities to the firm's fee-based platform or into a VALIC fixed index annuity. VFA further incentivized the conflict by prohibiting its registered representatives from receiving compensation when moving customer funds from a VALIC VA to non-VALIC VAs, mutual funds or other non-VALIC products. During 2012 and 2013, FINRA found there was significant volume of assets moving from VALIC VAs to the advisory platform. Also, in a seven-month period after the compensation policy was amended to include the proprietary fixed index annuity, sales of that product grew more than 610 percent.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "The conflict of interest inherent in VFA's compensation policy was not identified or monitored. Compensation policies that reward representatives for moving customers from one complex proprietary product to other potentially higher cost products must include monitoring and supervision that ensure that the representatives are not putting their own financial interests ahead of their obligation to their customer."

In addition, FINRA found that VFA failed to maintain systems and procedures to adequately supervise certain aspects of sales of individual VAs. The firm failed to provide its principals reviewing VA transactions with sufficient information to consider the customer's other assets, failed to enforce its procedures relating to the review of required VA disclosure forms, allowed principals to review and approve transactions without all required documentation in certain instances, and failed to enforce its procedures relating to the review of VA transactions that exceeded customer concentration levels. In addition, the firm failed to have adequate procedures relating to the supervision of multi-share class VAs, particularly L-shares.

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

### **FINRA Sanctions Merrill Lynch \$7 Million for Inadequate Supervision of Securities-Backed Leverage in Customer Brokerage Accounts**

**Restitution Also Paid to 22 Customers Who Were Highly Concentrated and Highly Leveraged in Puerto Rican Securities**

FINRA fined Merrill Lynch, Pierce, Fenner & Smith Inc. \$6.25 million and the firm will pay approximately \$780,000 in restitution for inadequately supervising its customers' use of leverage in their Merrill brokerage accounts.

Merrill “loan management accounts” (LMAs) are lines of credit that allow the firm’s customers to borrow money from an affiliated bank using the securities held in their brokerage accounts as collateral. FINRA found that from January 2010 through November 2014, Merrill lacked adequate supervisory systems and procedures regarding its customers’ use of proceeds from these LMAs. More specifically, FINRA found that although both Merrill policy and the terms of the non-purpose LMA agreements prohibited customers from using LMA proceeds to buy many types of securities, the firm’s supervisory systems and procedures were not reasonably designed to detect or prevent such use. FINRA further found that during the relevant period, on thousands of occasions, Merrill brokerage accounts collectively bought hundreds of millions of dollars of securities within 14 days after receiving incoming transfers of LMA proceeds.

FINRA separately found that from January 2010 through July 2013, Merrill lacked adequate supervisory systems and procedures to ensure the suitability of transactions in certain Puerto Rican securities, including municipal bonds and closed-end funds, where customers’ holdings were highly concentrated in such securities and highly leveraged through either LMAs or margin. FINRA further found that during the relevant period, 25 leveraged customers with modest net worths and conservative or moderate investment objectives, and with 75 percent or more of their account assets invested in Puerto Rican securities, suffered aggregate losses of nearly \$1.2 million as a result of liquidating those securities to meet margin calls. Merrill has already reimbursed some customers and, as part of the settlement, will pay approximately \$780,000 in restitution to the remaining 22 customers affected.

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