

# Disciplinary and Other FINRA Actions

## Firms Fined, Individuals Sanctioned

**Gardnyr Michael Capital, Inc. (CRD® #30520, Mobile, Alabama) and Pfilip Gardnyr Hunt Jr. (CRD #1613985, Registered Principal, Mobile, Alabama).**

The firm was censured, fined a total of \$20,000 and ordered to pay a total of \$5,322.44, plus interest, in restitution. Hunt was fined \$10,000 and suspended from association with any FINRA® member in any principal capacity for three business days. The sanctions were based on findings that the firm, in connection with bond-rating trips, willfully sought and received reimbursement from municipal bond proceeds for unnecessary expenses unrelated to the business purposes of the trips, and for expenses incurred by its representatives on a ratings trip, which the firm was contractually obligated pay. The findings stated that the firm improperly obtained reimbursement from municipal bond offering proceeds by seeking and obtaining reimbursement for municipal bond-rating trip expenses for which taxpayers should not have paid. The findings also stated that the firm and Hunt willfully failed to adopt, maintain or enforce any written supervisory procedures (WSPs) for bond-rating trips, and willfully failed to supervise such trips. Hunt was the person at the firm with responsibility for the firm's WSPs. The firm did not have any written policies or procedures concerning bond-rating trips and providing guidance for determining how to seek reimbursements for the firm and for municipal officials from offering proceeds, and did not have any procedures in place by which they actually supervised the trips. The findings also included that the allegations that the firm violated Municipal Securities Rulemaking Board (MSRB) Rule G-17 by seeking and obtaining reimbursements from municipal bond proceeds for entertainment expenses incurred on municipal bond-rating trips were dismissed.

The suspension was in effect from March 3, 2014, through March 5, 2014.

[\(FINRA Case #2011026664301\)](#)

## Firms Fined

**Colorado Financial Service Corporation (CRD #104343, Centennial, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it did not establish, maintain, and enforce an adequate system and written procedures to supervise and review electronic communications, in that it, among other things, only manually reviewed between 0.1 percent and 1.5

## Reported for April 2014

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).

percent out of a total of approximately 325,900 archived emails for a period of time. The findings stated that the firm's WSPs relating to electronic communications did not indicate who was responsible for the supervisory review, how the review would be conducted and documented, and what protocol to follow for escalating regulatory issues in emails. The firm did not establish, maintain and enforce adequate systems and procedures to conduct due diligence into private placements and non-traded real estate investment trusts (REITS). The firm's WSPs did not describe the steps to be taken or the records to be created to ensure the firm met its due diligence obligations. ([FINRA Case #2012030460901](#))

**Electronic Transaction Clearing, Inc. (CRD #146122, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500, and required to revise its WSPs with respect to Order Audit Trail System (OATS™) reporting and books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. Specifically, the reports contained inaccurate handling codes and an inaccurate timestamp. The findings stated that in a number of instances, the firm incorrectly memorialized a long sale as a short sale, incorrectly memorialized a short sale as a long sale, failed to memorialize the client account identifier on order memoranda, failed to memorialize the Time in Force code on order memoranda, failed to memorialize the correct execution price and the client account identifier on order memoranda, and failed to memorialize the expiration time for an order with a Good Till Time (GTT) time in force. The findings also 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 or Securities and Exchange Commission (SEC) rules. The firm's WSPs failed to provide for adequate WSPs concerning OATS reporting and books and records. ([FINRA Case #2011026157603](#))

**Essex Radez LLC (CRD #34649, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its WSPs with respect to OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Reportable Order Events (ROEs) to OATS that OATS rejected for context or syntax errors and were repairable. The firm failed to repair these rejected ROEs during the review period, and as a result of the firm's failure to repair these ROEs, failed to transmit ROEs to OATS during the review period. The firm failed to transmit ROEs to OATS on 188 business days. 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 OATS. ([FINRA Case #2011030391601](#))

**The Huntington Investment Company (CRD #16986, Columbus, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions

and to the entry of findings that it failed to provide notice to the MSRB via the Electronic Municipal Market Access System (EMMA) that no preliminary official statements or official statements were to be prepared for bond anticipation note offerings in which the firm participated. The findings stated that the firm engaged in advance refund offerings, and failed to file advance refunding documents with the MSRB via EMMA in each of the three advance refunding offerings in which the firm participated as the sole or senior underwriter. After examination, during the follow-up review period, the firm continued its violative conduct by not filing three advanced refunding documents with the MSRB via EMMA, and filing another five advance refunding offerings late by an average of 14 days. The findings also stated that the firm's WSPs were deficient because, although the firm's procedures partially outlined the firm's responsibilities with regard to filings to be made with the MSRB and disclosures to be provided to customers, the firm's procedures failed to provide an adequate system for ensuring that such responsibilities were met. During the follow-up review period, the firm failed to enforce its newly revised WSPs, resulting in its continued violation of MSRB Rule G-32 by failing to make three required disclosures via to the MSRB EMMA and by filing late another five disclosures to the MSRB via EMMA. The findings also included that the firm failed to disclose four political contributions by a non-municipal finance professional (MFP) executive at the firm had made. Three of the political contributions totaled between \$2,500 and \$3,500, and the fourth political contribution was for \$1,000. ([FINRA Case #2013035712201](#))

**International Strategy & Investment Group LLC (CRD #28195, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$95,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that despite its primary business line being the production and distribution of macro and fundamental research reports to institutional clients, the firm, for more than two years, failed to adopt and implement WSPs related to the review and supervision of research reports and institutional sales material and the trading of its research analysts and their households. As a result, the firm's research reports and institutional sales material violated various FINRA rules governing the content of those reports, and three of the firm's research analysts violated FINRA rules establishing trading prohibitions governing research analysts. The findings stated that the firm had WSPs in place related to the review and approval of public appearances, but failed to implement those procedures. Although the firm did not have WSPs requiring the review of all institutional sales material prior to use or distribution, the WSPs did not require education and training to registered representatives regarding institutional sales material, documentation of such education and training, or surveillance and follow-up to ensure that such procedures were implemented and adhered to.

The findings also stated that two of the firm's research analysts together published more than 100 research reports and participated in three public appearances that failed to disclose their ownership of common stock in companies that were the subject of their research reports and/or public appearances. At least five of the reports from one analyst

contained an inaccurate and misleading disclosure that no person(s) preparing the report or a member of his/her household had a financial interest in the subject companies of the report. The firm failed to prevent a research analyst from purchasing shares of two companies he covered in a published research report during the prohibited period beginning 30 calendar days before and ending five calendar days after the publication. The findings also included that the firm failed to prevent an account belonging to a member of a research analyst's household from purchasing shares of a security when that transaction was inconsistent with the research analyst's current hold recommendation on that security.

FINRA found that the firm's research analysts engaged in public appearances and the firm failed to maintain records of those public appearances that were sufficient to demonstrate compliance by those research analysts with applicable disclosure requirements. Although the firm established WSPs requiring pre and post reviews of public-appearance materials, the firm lacked evidence that the reviews were conducted. FINRA also found that the firm's publicly available research reports, which were posted on its website, contained complex and overly technical explanations and valuation methods or charts that could have misled and confused unsophisticated investors. In research reports published on the firm's website, the firm failed to include disclosures regarding the risks that may impede achievement of price targets included in each report, and the firm omitted price charts in research reports that required them. The firm distributed research reports without disclosures on the front page or a reference to the specific page on which the required disclosures were located and used conditional or indefinite language in the reports. In addition, FINRA determined that the firm failed to ensure that its research report disclosures specified from which subject company the firm or its associated persons received compensation when more than one company was covered in a report, and failed to properly describe the types of services provided to the subject company with one of the required descriptions (*i.e.*, as investment banking services, non-investment banking securities-related services or non-securities services). ([FINRA Case #2012030369201](#))

**J.P. Morgan Securities LLC (CRD #79, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$95,000 and required to revise its WSPs with respect to FINRA Rule 6760 obligations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accurately report S1 transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible agency debt securities to TRACE; failed to report to TRACE S1 transactions in TRACE-eligible agency debt securities that it was required to report, failed to accurately report P1 transactions in TRACE-eligible agency debt securities to TRACE, failed to report to TRACE P1 transactions in TRACE-eligible agency debt and corporate securities that it was required to report, and reported P1 transactions in TRACE-eligible agency debt and corporate debt securities that it was not required to report to TRACE. The findings stated that the firm failed to report the correct contra-party's identifier for P1 transactions in TRACE-eligible corporate debt securities to TRACE, failed to accurately report the market identifier for P1 transactions in TRACE-eligible corporate debt securities to TRACE, failed to report the correct volume for P1 transactions in TRACE-eligible corporate debt securities

to TRACE, and failed to report the correct time and date of execution for P1 transactions in TRACE-eligible corporate debt securities to TRACE.

The findings also stated that as managing underwriter, the firm failed to report new issue offerings in TRACE-eligible agency debt securities to FINRA according to the time frames set forth in FINRA Rule 6760. 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 FINRA Rule 6760 obligations. The firm failed to report S1 transactions in TRACE-eligible agency debt securities to TRACE within 15 minutes of the execution time, and failed to report transactions in TRACE-eligible agency debt securities and corporate bonds. ([FINRA Case #2011026812801](#))

**Morgan Stanley Smith Barney LLC (CRD #149777, Purchase, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$41,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Execution or Combined Order/Execution Reports to OATS that OATS was unable to link to the related trade reports in a FINRA transaction reporting system because they contained inaccurate, incomplete or improperly formatted data, and submitted Execution Reports in which the firm failed to append the required Reporting Exception Code. The finding stated that the firm failed to report SP transactions to TRACE within the time FINRA Rule 6730 required. The firm failed to report large-block S1 transactions in corporate and agency securities to TRACE within 15 minutes of the execution time and, with respect to some of these transactions, the firm failed to report the correct execution time to TRACE. ([FINRA Case #2011030398301](#))

**Nasdaq Execution Services, LLC (CRD #7270, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was fined \$5,000. Without admitting or denying the findings, the firm consented to the described sanction and to the entry of findings that it entered orders in the NASDAQ Market Center that failed to indicate correct capacity in contravention of NASDAQ Rule 4611(a)(6). ([FINRA Case #2013035831002](#))

**Oppenheimer & Co., Inc. (CRD #249, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted transactions with inaccurate market center codes to the FINRA/NASDAQ Trade Reporting Facility (FNTRF). The firm submitted transactions for which it failed to substantiate usage of the qualified contingent trade modifier. The findings stated that the firm reported inaccuracies on customer confirmations, including disclosing an inaccurate capacity, disclosing an inaccurate execution price, failing to disclose that these were average price transactions, inaccurately disclosing the compensation type as "commission equivalent" for agency trades, failing to disclose the firm was market maker in a security, inaccurately disclosing the compensation type as "commission" for principal trades. The firm transmitted reports to OATS that contained inaccurate, incorrect,

incomplete or improperly formatted data. Specifically, the firm submitted orders with an inaccurate customer designation and failed to submit information for routes associated with an order. The firm marked its internal ledger with an inaccurate short designation for a long position, and incorrectly reported a long sale to the FNTRF with a short sale modifier. The firm failed to properly classify customer orders for purposes of SEC Rule 605 order execution disclosure, and for a month made available a report on the covered orders in national market system securities that it received, which failed to contain accurate statistics for marketable limit orders between 500 and 1,999 shares in one security. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain applicable federal securities laws and regulations, and/or NASD/FINRA rules, and failed to provide for minimal requirements for adequate WSPs regarding trade reporting (timely and accurate reporting to the TRF) and OATS (accuracy of OATS data). ([FINRA Case #2011026125001](#))

**Portfolio Advisors Alliance, Inc. (CRD #101680, New York, New York)** submitted an Offer of Settlement in which the firm was censured and fined \$45,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to maintain its minimum net capital requirement and conducted a securities business on at least two occasions while it was net-capital deficient. The firm filed a 17a-11(b) notification with FINRA that stated that the firm operated with deficient net capital for a period of time, conducted a securities business on the dates of the deficiency and that the cause of the deficiency was unbooked, unsecured debits. The findings stated that the firm failed to prepare an accurate general ledger, trial balance, balance sheet and net-capital computation; and as a result, filed a materially inaccurate Financial and Operational Combined Uniform Single (FOCUS) report. The firm failed to retain certain of its business-related electronic communications. The firm began to store its business-related electronic communications using electronic storage media, but failed to timely file an Electronic Storage Media Notification with FINRA and only did so approximately 48 days late.

The findings also stated that the firm failed to conduct the analysis required to determine whether individuals, as producing managers, should have been subject to the heightened supervision requirements of NASD Rule 3012. At no point did the firm implement procedures to provide heightened supervision over the individuals as set out under Rule 3012. The firm's report made pursuant to FINRA Rule 3130 was inadequate in that the report on supervisory control procedures failed to identify an individual as a producing manager and failed to identify individuals as being subject to heightened supervision as producing managers. The firm's WSPs relating to the review of trades a producing manager had made were deficient because they failed to require review of daily operational activities a producing manager had conducted. Accordingly, there was no review of an individual's entry of trade corrections, although the individual was a producing manager. The findings also included that the firm's membership agreement did not permit the firm to conduct options business. The firm nonetheless conducted options trades, which were not reviewed

by a registered options principal. The firm failed to ensure that its supervisory system addressed its options business and failed to have properly qualified principals in the branch offices that transacted options business.

FINRA found that the firm failed to have reasonable WSPs, failed to enforce its WSPs, and failed to reasonably supervise the activities of its registered representatives and associated persons in a number of areas of the firm's business. The firm's WSPs did not contain any procedures related to due diligence of private placements, and the firm failed to document due diligence and approval for four private placement offerings the firm offered for sale to customers. The firm failed to document that it reviewed any incoming or outgoing correspondence, including email, of its representatives. FINRA also found that the firm's WSPs relating to branch office examinations were deficient because they did not provide procedures for review of the supervision of customer accounts the branch manager serviced, transmittal of funds between customers and registered representatives, and validation of changes in customer account information or addresses. The firm had not conducted inspections of three Office of Supervisory Jurisdictions (OSJs), although all three had been open for more than a year, and never conducted an inspection of three non-branch locations. The firm's WSPs relating to handling of customer checks were deficient because they failed to provide procedures for, among other things, forwarding customer checks to the firm's clearing firm no later than noon the next business day following receipt, providing a physical location where customer checks would be held if the firm is required to hold checks overnight, notifying the firm's customers to send all funds directly to the clearing agent, and responding in the event the firm received a customer check made not made payable to the clearing firm. As a result of these deficient procedures, the firm received and forwarded to its clearing firm customer checks that were made payable to a third party that was neither the firm nor the clearing firm.

In addition, FINRA determined that the firm did not provide an annual Privacy Policies and Practices Notice pursuant to Regulation S-P to approximately 500 of the firm's customers. The firm failed to report customer complaints and failed to timely report customer complaints. The complaints that were reported late were only reported after FINRA staff required the firm to file them under NASD Rule 3070. The firm failed to properly maintain its do-not-call list when it failed to place the names of persons on the list after these persons requested to be placed on it, and it failed to conduct telemarketing training although some of the firm's branch offices engaged in telemarketing. Associated persons of the firm called telephone numbers that were registered with the national do-not-call registry. Moreover, FINRA found that the firm paid compensation to certain of its registered representatives through an affiliate and branch office of the firm, which is not a FINRA member firm. ([FINRA Case #2010021296702](#))

**Stifel, Nicolaus & Company, Incorporated (CRD #793, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and required to revise its WSPs with respect to FINRA Rule 6760. Without admitting or denying



the findings, the firm consented to the described sanctions and to the entry of findings that it effected transactions in securities while a trading halt was in effect with respect to each of the securities. The findings stated that the firm, as managing underwriter, failed to report new issue offerings in TRACE-eligible agency debt securities to FINRA according to the time frames set forth in FINRA Rule 6760(c). The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to Rule 6760. ([FINRA Case #2011029292901](#))

**Tejas Securities Group, Inc. (CRD #36705, Austin, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$73,000 and ordered to pay \$22,333, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold (bought) corporate bonds to (from) customers and failed to sell (buy) such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the time of execution, failed to report the correct trade execution time for transactions in TRACE-eligible securities, and failed to show the correct execution time on memoranda of brokerage orders. The firm failed to report information regarding purchase and sale transactions effected in municipal securities to the Real-Time Transaction Reporting System (RTRS) in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about such transactions within 15 minutes of the Time of Trade to an RTRS Portal. ([FINRA Case #2010023377801](#))

**Tradition Asiel Securities Inc. (CRD #28269, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$77,500 and required to revise its WSPs. In determining the fine, FINRA took into consideration sanctions in related disciplinary actions against the firm. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account, without documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings stated that firm failed to maintain an accurate ledger, and the firm's ledger marked the transactions as long when they were short. The firm failed to transmit ROEs to OATS and incorrectly reported to the FNTRF riskless trade reports of transactions in designated securities it was not required to report. The firm accepted orders from customers 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 failed to establish, maintain, and enforce written policies and procedures that were reasonably designed to prevent trade-throughs of



protected quotations in national market system (NMS) stocks that do not fall within any applicable exception, and if relying on an exception, are reasonably designed to assure compliance with the terms of the exception. 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 FINRA rules, and its WSPs failed to provide for minimum requirements for adequate WSPs with respect to order handling, best execution, trade reporting, sale transactions, other trading rules, soft-dollar accounts and trading, OATS, other rules and the use of multiple market participant identifiers (MPIDs). The firm failed to provide documentary evidence that during a month, it performed the supervisory reviews set forth in its WSPs concerning best execution, trade reporting, sales transactions, OATS and other rules. ([FINRA Case #2011026165003](#))

## Individuals Barred or Suspended

**Jeffrey Robert Alexander (CRD #5387133, Registered Representative, Colorado Springs, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Alexander's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Alexander consented to the described sanctions and to the entry of findings that he recommended that investors purchase interests in an oil and gas program to fund the drilling of a well without having a reasonable basis for believing it to be suitable for any investors or, individually, for the investors who purchased interests. The findings stated that there were "red flags" with respect to the background of the principals of the offering company, the lack of certain disclosures in the private placement memorandum and the vagueness of other disclosures, that should have been more fully investigated before the investment was recommended to anyone. The individuals who invested in the oil and gas program each completed a subscription agreement, but no other information was obtained and recorded for these investors. The subscription agreements lacked certain information such as the investor's age, other investments and specific information about the investor's financial circumstances, risk tolerance, liquidity needs and time horizon. Without this information, Alexander could not reasonably believe that an investment in the oil and gas program was suitable for the individuals who invested.

The suspension is in effect from March 3, 2014, through June 2, 2014. ([FINRA Case #2012030570701](#))

**William Jeffrey Austin (CRD #728234, Registered Representative, Redlands, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Austin's reassociation with a FINRA

member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Austin consented to the described sanctions and to the entry of findings that he exercised discretion in a customer account without obtaining the customer's written authorization or his firm's acceptance of the account as discretionary. The findings stated that Austin's firm did not allow discretionary trading in customer accounts and did not accept the customer's accounts as discretionary. Austin provided a response on firm compliance questionnaires in which he falsely attested that he did not exercise discretionary authority over client accounts.

The suspension was in effect from February 18, 2014, through March 31, 2014. ([FINRA Case #2012031890301](#))

**Richard Hans Bach (CRD #1011097, Registered Principal, Mohawk, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Bach caused his member firm to violate the Net Capital Rule by conducting a securities business while it had insufficient net capital. The findings stated that Bach caused his firm to violate the Customer Protection Rule by failing to perform reserve calculations and by failing to obtain a written notification from each bank at which the firm maintained a reserve account, certifying that the bank was informed that all cash or qualified securities deposited in the bank were being held for the exclusive benefit of customers of the broker or dealer, and were being kept separate from any other accounts maintained by the broker or dealer with the bank. Bach also failed to maintain physical possession or control of customers' fully paid stock. Bach misrepresented to a clearing firm that his firm would be clearing only proprietary trades when he was seeking clearing services in order to effect penny stock transactions for customers.

The findings also stated that Bach willfully filed a false Uniform Application for Broker-Dealer Registration (Form BD). Bach caused his firm to violate its FINRA membership agreement, and failed to obtain FINRA approval for a material change in the firm's business operations. Bach caused his firm to fail to make and keep current order memoranda for trades by his firm's holding company and others. Bach misused customer securities by failing to return securities to a customer despite repeated requests, failing to maintain physical possession and control of customers' stock, and refusing to return free credit balances to a customer despite repeated requests for the funds. The findings also included that Bach failed to submit timely and complete responses to FINRA requests for documents and information. ([FINRA Case #2011025506901](#))

**Stefani Ann Bennett (CRD #5890347, Registered Representative, Salmon, Idaho)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bennett consented to the described sanction and to the entry of findings that she, without her customer's knowledge or consent, withdrew \$100,000 in cashier's checks and cash from

the customer's estate checking account at her member firm's sister bank affiliate and converted the \$100,000 for her own use and benefit.. The findings stated that Bennett arranged to have five cashier's checks issued to her personal creditors in the total amount of \$97,592.41, and she retained \$2,407.59 in cash. ([FINRA Case #2014039668101](#))

**Thomas Burton Collins (CRD #2136140, Registered Representative, Midland, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Collins' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Collins consented to the described 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 was the subject of liens.

The suspension is in effect from February 18, 2014, through May 17, 2014. ([FINRA Case #2012032607701](#))

**William Bradford Coolidge (CRD #1636957, Registered Representative, Cordova, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Coolidge consented to the described sanction and to the entry of findings that he effected trades in elderly customers' accounts without obtaining the customers' prior written authorization and without his member firm's acceptance of the accounts as discretionary. The findings stated that Coolidge implemented a trading strategy in elderly customers' Individual Retirement Accounts (IRAs) and individual accounts to switch mutual funds and unit investment trusts (UITs) to other mutual funds or UITs after holding the investments for a short time period. For one of these customers, in the customer's IRA account, Coolidge effected mutual fund and UIT purchases and sales in the account after holding the investments for a short time period. Given the customers' age, investment objectives, and risk profile or annual income, Coolidge's recommendations were not suitable and were inconsistent with their account objectives. The elderly customers incurred losses totaling \$195,127.37 and paid commissions totaling \$168,091.21. ([FINRA Case #2012032916701](#))

**Florlena Cortez (CRD #4339441, Registered Principal, El Paso, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cortez consented to the described sanction and to the entry of findings that she participated in private securities transactions by soliciting customers to invest in securities that were outside the regular course and scope of her association with her member firm. The findings stated that Cortez did not provide prior written notice to the firm describing in detail the proposed transactions and her proposed role in them, including whether she had received or would

receive selling compensation in connection with the transactions. The findings also stated that in the course of FINRA's investigation into whether Cortez engaged in undisclosed private securities transactions and outside business activities while registered with the firm, FINRA sought on-the-record testimony from her. Cortez informed FINRA that she would not appear to testify at an on-the-record interview. ([FINRA Case #2012031460902](#))

**Harold Lavern DePrill Jr. (CRD #1302318, Registered Principal, Johns Island, South Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, DePrill consented to the described sanction and to the entry of findings that he failed to appear for FINRA-requested testimony. DePrill's counsel acknowledged receipt of the request and informed FINRA that DePrill would not appear for testimony. ([FINRA Case #2011029679502](#))

**Thomas Joseph Dunn (CRD #2730860, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Dunn's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Dunn consented to the described sanctions and to the entry of findings that while registered with three firms, he failed to disclose on his Form U4 the material fact that he filed for bankruptcy.

The suspension was in effect from February 18, 2014, through March 17, 2014. ([FINRA Case #2013037423601](#))

**Daniel Lee Hudson (CRD #4153525, Registered Representative, Great Falls, Montana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Hudson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hudson consented to the described sanctions and to the entry of findings that he established and began operating a company, was the company's sole owner and officer, and did not provide his firm with notice of the company until almost a year later. The findings stated that during his association with the firm, Hudson participated in private securities transactions by facilitating the investment by individuals, including firm customers, in his company. Together, these individuals invested \$104,000 in his company. These transactions were outside the regular course and scope of Hudson's employment with the firm and occurred without the firm's knowledge or permission. Hudson never informed the firm of his participation in these investments. The firm's policies and procedures prohibited associates from participating in an outside business activity and

from engaging in private securities transactions without giving prior notice and receiving the firm's prior approval.

The suspension is in effect from February 18, 2014, through August 17, 2014. ([FINRA Case #2012031460601](#))

**Richard David Jameison Jr. (CRD #2567029, Registered Principal, Devon, Pennsylvania)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Jameison converted \$150,000 from an acquaintance who was not his member firm's customer. The findings stated that Jameison told the acquaintance about an opportunity to invest, alongside a small group of other investors, in a business enterprise that was being formed. Jameison told the acquaintance that his firm was not involved with raising the money for the enterprise and that any investment in the enterprise would not be made through the firm. Jameison also told the acquaintance that he intended to invest in the enterprise. The acquaintance decided to invest in the enterprise, in part because he understood that Jameison would also be investing. The acquaintance wired \$150,000 into a securities account that Jameison owned jointly with his wife. Jameison never invested any of the investor's funds and converted the bulk of the funds for his own use and benefit. Jameison falsely told the acquaintance that he had realized a profit on his investment. On several occasions, the acquaintance asked Jameison to return the funds along with the earnings on the investment. Jameison wrote checks drawn against joint accounts that he maintained with his wife, each for \$198,000, and delivered the checks to the acquaintance. Jameison represented to the acquaintance that the checks represented the return of the \$150,000 investment plus the purported return on investment. The checks were drawn against accounts that contained insufficient funds and were dishonored. Jameison's firm terminated his employment, and the acquaintance and his wife filed a lawsuit against Jameison. Jameison paid the acquaintance and his wife \$165,000. The findings also stated that Jameison failed to respond to FINRA's requests for documents and information relating to his dealings with the acquaintance. Although Jameison, through counsel, represented that the effects of Super Storm Sandy interfered with his ability to respond to the requests, FINRA made four separate requests for the documents and information and gave Jameison several extensions. ([FINRA Case #2012033364501](#))

**John Allen Kowske (CRD #1124297, Registered Representative, Milwaukee, Wisconsin)** 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 Kowske willfully failed to disclose and willfully failed to timely disclose judgments and a tax lien on his Form U4.

The suspension is in effect from February 17, 2014, through August 17, 2014. ([FINRA Case #2011027363401](#))

**Louis Michael Lombardi (CRD #2185730, Registered Representative, Staten Island, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for one month.

The fine must be paid either immediately upon Lombardi's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Lombardi consented to the described sanctions and to the entry of findings that he failed to timely disclose a bankruptcy on his Form U4.

The suspension was in effect from February 18, 2014, through March 17, 2014. ([FINRA Case #2013037858601](#))

**Andrew Charles Lord (CRD #1289303, Registered Representative, Portsmouth, New Hampshire)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Lord consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose an unsatisfied tax lien.

The suspension was in effect from March 17, 2014, through April 11, 2014. ([FINRA Case #2013039006301](#))

**Christopher David Mackey (CRD #5836017, Registered Representative, Grayson, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Mackey's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Mackey consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in customer accounts without the customers' knowledge, authorization or consent. These unauthorized transactions included purchases of equity securities, investment company securities and certificate of deposits totaling in aggregate \$59,745.77, and sales of equity and investment company securities totaling \$13,110.78.

The suspension is in effect from March 3, 2014, through September 2, 2015. ([FINRA Case #2012032324701](#))

**Gregg N. Nussbaum (CRD #2020751, Registered Representative, Deerfield, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Nussbaum consented to the described sanction and to the entry of findings that as a proprietary trader for his member firm, he intentionally exceeded his trading authority. The findings stated that the firm authorized Nussbaum to engage in riskless principal trading for the firm, wherein he could only simultaneously open and close a U.S. Treasury position of no greater than \$5 million par value. Nussbaum, however, did not simultaneously open and close positions, as he left positions open for extended periods of time throughout a trading day and he opened positions in excess of his \$5

million par value limit. In order to exceed his trading authority, Nussbaum intentionally submitted order tickets with false execution times to the firm. The tickets falsely indicated that Nussbaum was complying with the firm's limitations by simultaneously opening and closing a U.S. Treasury position of \$5 million par value. Because the firm engaged in proprietary trading, it was required to maintain minimum net capital of \$100,000. The haircut on the positions Nussbaum opened, and then left open, on a certain date, caused the firm's capital position to fall below its required minimum on that day. The findings also stated that as a result of the foregoing, the firm conducted securities business while it was net-capital deficient on at least that date. ([FINRA Case #2013038444702](#))

**Richard Martin Ohlhaber (CRD #2154794, Registered Principal, Keller, Texas)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Ohlhaber consented to the described sanction and to the entry of findings that he participated in the sale of life settlement contracts offered by a company to at least 18 customers without providing written notice of his involvement in the sales of the life settlement contracts to either of his FINRA member firms, and never obtained either firm's permission to engage in such outside business activity. The findings stated that Ohlhaber received commission checks from the company totaling over \$300,000. These checks were addressed to an entity whose sole members were Ohlhaber and his wife. Ohlhaber endorsed these checks and deposited them in the entity's bank account. Ohlhaber had access to this bank account and withdrew or otherwise used the money contained in this bank account. The company was not an approved product at either of Ohlhaber's firms. Ohlhaber completed questionnaires at both firms in which he represented that he was not engaged in any outside business activity, and he misrepresented to one of the firms that the entity was a "shell" that was not engaged in any business. The findings also stated Ohlhaber provided false sworn testimony which was material to FINRA's investigation and as a result, impeded the investigation. The findings also included that Ohlhaber loaned money to customers who were not Ohlhaber's family members. Ohlhaber never informed his firm about these loans and the firm never pre-approved the loans in writing. The firm's WSPs only permitted loans between registered representatives and customers who are the registered representative's immediate family members. ([FINRA Case #2012032077901](#))

**Daniel Simon Pikula (CRD #2563165, Registered Representative, Wellington, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Pikula consented to the described sanctions and to the entry of findings that he exercised discretion in customer accounts at his member firm. The findings stated that with respect to some of the transactions, Pikula exercised discretion notwithstanding the fact that he did not have the customers' written authorization to place discretionary trades, and he failed to obtain his firm's written acceptance of the accounts as discretionary.



The suspension was in effect from March 17, 2014, through April 4, 2014. ([FINRA Case #2011029763601](#))

**Allen Hugo Reichman (CRD #1002285, Registered Representative, Irvington, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Reichman consented to the described sanction and to the entry of findings that he failed to appear for FINRA-requested testimony. The findings stated that Reichman's counsel informed FINRA via telephone that his client would not appear for testimony until after criminal proceedings against him were resolved, and followed up with a letter reiterating his client's position. Reichman, to date, has not provided the requested testimony. Reichman's failure impeded FINRA's investigation into a \$30 million margin loan issued by his member firm that was used as part of a fraudulent scheme involving an insurance company. ([FINRA Case #2010022584502](#))

**Sean Michael Rosen (CRD #4989745, Registered Representative, Patchogue, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Rosen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Rosen consented to the described sanctions and to the entry of findings that he failed to disclose on his Form U4 the material fact that he filed for bankruptcy.

The suspension was in effect from February 18, 2014, through March 17, 2014. ([FINRA Case #2013037424601](#))

**Timothy Burke Ruggiero (CRD #2119642, Registered Principal, Plantation, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Ruggiero engaged in intentional stock price manipulation in violation of Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 thereunder. The findings stated that Ruggiero not only participated in the manipulative stock price scheme, but as his member firm's President and Chief Executive Officer (CEO), was in a position to prevent the manipulation and did not do so. Ruggiero unlawfully traded in stock for two offerings during the restricted periods. Ruggiero forged initials on order tickets to evidence supervisory review of options transactions. The findings also stated that Ruggiero did not ensure that the firm had an effective system in place to retain electronic communications and he and others at the firm routinely used outside, personal email accounts, which bypassed any surveillance system the firm utilized. Ruggiero failed to retain electronic communications and failed to enforce the firm's WSPs regarding electronic correspondence. Ruggiero failed to reasonably supervise his firm's trading and electronic communications, and failed to adequately monitor the trading of two offerings during the restricted periods, which resulted in prohibited trading in violation of Regulation M and

manipulative trading. Ruggiero failed to follow firm policies and procedures that required prior review and approval of all emails. When Ruggiero received problematic emails, he ignored red flags and abdicated his supervisory responsibility. Ruggiero also failed to ensure that the firm had a proper system to retain its email and prevent the use of outside, personal email accounts. ([FINRA Case #2008011675301](#))

**Mark Raymond Talley (CRD #4969783, Registered Representative, Ft. Mitchell, Kentucky)** 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, Talley consented to the described sanction and to the entry of findings that he recommended that his customer replace an existing variable annuity with a new variable annuity. The findings stated that Talley misrepresented orally and in writing that the existing variable annuity was out of the surrender period and could be sold without incurring a surrender fee when in fact, the annuity was still in the surrender period and the customer would incur a \$15,000 surrender fee if it was sold. As a result of Talley's representation, the customer sold the annuity and purchased a new one. On a switch form related to the transaction, Talley falsely stated that he verified that the customer's existing annuity was out of the surrender period and claimed he had obtained this information by speaking to an individual he claimed was an employee of the insurance company that underwrote and issued the annuity. Talley did not, in fact, contact the insurance company. Therefore, the information he placed on the switch form was false. The customer signed the switch form and Talley submitted it to his member firm. The firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) in which it disclosed that Talley was permitted to resign after the firm determined that he had provided inaccurate information on a client disclosure document. The findings also stated that in connection with FINRA's investigation into that disclosure, Talley provided false answers to FINRA in response to a request for information. Talley provided partial testimony in a FINRA on-the-record interview, but failed to appear to complete the testimony. ([FINRA Case #2012032650301](#))

**Cory Ward Taylor (CRD #4397111, Registered Representative, Nelsonville, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for six weeks. In imposing the monetary sanction, FINRA considered that Taylor's member firm issued a Letter of Reprimand to Taylor that included a \$10,000 fine, which Taylor paid, and a Corrective Action Plan for Taylor's failure to follow firm policy, to which Taylor agreed. Without admitting or denying the findings, Taylor consented to the described sanctions and to the entry of findings that he purchased a company's stock in accounts involving client groups (*i.e.*, clients who had multiple accounts). The findings stated that Taylor spoke with some of the clients prior to each trade and they agreed to purchase the securities; however, he did not call the clients on the day of the trade to reconfirm the trades prior to execution. Taylor did not have prior written authorization to exercise discretion in these accounts, and these accounts were not accepted as discretionary accounts by his firm. With respect to some of the accounts, Taylor engaged in unauthorized trading by not receiving

any prior authorization from the customers to purchase the stock. After investigating these transactions, the firm offered rescission to the affected customers. Some of the customers who did not give Taylor authorization to purchase the stock elected to rescind the transactions and a couple customers who gave Taylor oral discretion to purchase the securities also elected to rescind the transactions. The firm held Taylor responsible for the costs of those rescissions, in the total amount of \$23,112, which Taylor paid.

The suspension was in effect from March 3, 2014, through April 13, 2014. ([FINRA Case #2012034836402](#))

**Matthew Alan Trulli (CRD #3048416, Registered Representative, Visalia, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for one year. In light of Trulli's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Trulli consented to the described sanction and to the entry of findings that he borrowed a total of approximately \$197,500 from his member firm's customers. The loans were documented with promissory notes. The loans that have reached their maturity date have not been repaid in full. The findings stated that Trulli's firm prohibited its representatives from participating in borrowing transactions with customers under any circumstances. Trulli provided false information in response to two firm outside business activity reports regarding receiving loans from customers.

The suspension is in effect from February 18, 2014, through February 17, 2015. ([FINRA Case #2012032304201](#))

**Robert Durant Tucker (CRD #1725356, Registered Representative, New York, New York)** was barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) affirmed the findings in part and sustained the sanction imposed following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Tucker improperly approved the transfer of customer funds to his personal checking account by falsifying a wire transfer form to give the appearance that he was a manager at his firm, and then converted those funds for his personal use. The findings stated that Tucker prepared a wire request form instructing his member firm's clearing firm to wire \$4,500 from the account of an elderly customer to his personal checking account at a bank. As a safeguard against unauthorized transfers of customer funds, the firm's sole fax machine automatically sends copies of all outgoing faxes to an email box that the firm's compliance department reviews. Tucker circumvented the firm's safeguard by using a fax machine at a store a few blocks from the firm to fax the wire request transfer. After the customer's verbal complaint to the firm regarding the unauthorized transfer, the firm confronted Tucker and he told them he would fix it. Tucker arranged for a close personal friend to repay the customer. The findings also stated that the evidence to support that Tucker commingled a customer's funds is exactly the same evidence that proves that he converted the customer's funds. Given the finding of conversion, however, the NAC found

it unnecessary to consider whether Tucker also commingled the customer's funds with his own funds and dismissed this allegation.

This matter has been appealed to the SEC and the sanction is in effect pending review. ([FINRA Case #2009016764901](#))

**Ronald E. Walblay (CRD #2171097, Registered Principal, Delray Beach, Florida)** was barred from association with any FINRA member in any capacity in an OHO decision that was appealed to the NAC. The NAC affirmed the granting of FINRA's motion for summary disposition and found that Walblay failed to appear for testimony. The NAC reversed the granting of summary disposition concerning the sanctions, vacated the sanctions imposed, and remanded the proceeding for further fact-finding at a hearing that is consistent with the decision. The sanction was based on findings that Walblay failed to appear in response to FINRA requests for on-the-record testimony.

The sanction is not in effect pending the outcome of the decision. ([FINRA Case #2011025643201](#))

**Linda Whitmore (CRD #2855540, Associated Person, Brown Deer, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Whitmore consented to the described sanction and to the entry of findings that she and her manager manipulated their member firm's payroll system and caused payments to be made to them to which they were not entitled. The findings stated that through the firm's payroll system, Whitmore and her manager inflated their current and year-to-date (YTD) federal and state tax withholding balances and charitable contributions, and then caused improper payments to be made to them. These payments appeared to be refunds of overpayments. In a similar manner, Whitmore converted funds by manipulating charitable contribution withholdings and generating improper payments to be made to her. The firm had checks in place to preclude individuals from changing their own withholding balances. Initially, Whitmore and her manager inflated the withholding balances for the other. Eventually, Whitmore and her manager shared their user IDs and passwords and input their own inflated withholding balances. By engaging in these activities, Whitmore converted more than \$500,000. ([FINRA Case #2012034737102](#))

**Pamela Anne Wooten (CRD #1313028, Registered Principal, Beaufort, South Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Wooten consented to the described sanction and to the entry of findings that she failed to appear for investigative on-the-record testimony to obtain information concerning certain transactions she executed between her member firm and one of its customers. The findings stated that Wooten's counsel acknowledged receipt of the request; and Wooten, through her counsel, informed FINRA that she would not appear for testimony. ([FINRA Case #2011029679501](#))

**Michael Anthony Zolondek (CRD #2513409, Registered Principal, Mauston, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Zolondek consented to the described sanction and to the entry of findings that he moderated the Life Underwriting Training Council (LUTC) courses offered to employees and contractors of his member firm and its affiliate insurance company, and scheduled the final examinations. The findings stated that Zolondek assisted many of these employees or contractors to cheat on LUTC examinations. Zolondek assisted these individuals by identifying questions that had been answered incorrectly and then asking the question in a different way than the question was asked on the examination, identifying incorrect answers and then explaining the meaning of each of the answers, providing correct answers to the questions, and taking an LUTC examination for an individual. The findings also stated that Zolondek instructed at least three employees or contractors to sign proctor affirmations for LUTC examinations that they did not proctor, on which they falsely stated that they proctored the LUTC examinations, that the students completed the examinations independently and, in one instance, that the individual was not the student's direct supervisor. Zolondek knew that by signing proctor affirmations for examinations that they did not proctor, these individuals would be making these false statements. The findings also included that Zolondek assisted a registered representative, over whom he had supervisory responsibility, in cheating on an LUTC examination. By doing so, Zolondek failed to supervise this individual. ([FINRA Case #2013035948001](#))

## Individuals Fined

**Douglas Covington Osborn (CRD #867592, Registered Representative, South Lyon, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000. Without admitting or denying the findings, Osborn consented to the described sanction and to the entry of findings that he used discretion on several occasions to buy or sell inverse floater collateralized mortgage obligations (CMOs) on behalf of two of his customers without having obtained their prior written authorization to exercise discretion and his member firm's prior written acceptance of their accounts as discretionary. Although Osborn's firm permitted discretionary trading, the firm's WSPs required him to obtain the firm's prior written approval before engaging in any discretionary trading activities. ([FINRA Case #2011025852105](#))

**Daniel James Mancuso (CRD #2519423, Registered Representative, Happy Valley, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Mancuso consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts with regard to the customers' syndicate trading without first obtaining the customers' written authorization, which would then have required his member firm's subsequent acceptance. The findings stated that Mancuso improperly exercised discretion to purchase

shares for the customers in syndicate trades without first obtaining customer indications of interest. ([FINRA Case #2012031643901](#))

## 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 February 28, 2014. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future issues of *FINRA Disciplinary and Other Actions*.

**Kenny Akinfolarin Akindemowo (CRD #4315718, Registered Representative, Wayzata, Minnesota)** was barred from association with any FINRA member in any capacity. The sanction was 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 that he did so by intentionally making fraudulent misrepresentations. 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 member firm, without prior written notice to and written permission from the firm. 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.

This matter has been appealed to the NAC and the sanction is not in effect pending review. ([FINRA Case #2011029619301](#))

**William Hugh Carson (CRD #722967, Registered Principal, Westminster, Colorado) and Rani Tarek Jarkas (CRD #2642904, Registered Principal, San Francisco, California)**. Carson was fined \$5,000, suspended from association with any FINRA member as a Financial and Operations Principal (FINOP) for two months, and required to requalify as a FINOP. Jarkas was barred from association with any FINRA member in any capacity. The sanctions were based on findings that Carson caused his member firm's net capital calculations to be inaccurate, resulting in inaccurate firm books and records. The inaccurate net capital computations were the result of Carson's failure to take into account the firm's unpaid payroll taxes and that the firm's proprietary trading caused the firm's net capital requirement to increase. Carson failed to fulfill his responsibilities as a FINOP. Carson

accepted summaries he received at face value despite red flags that should have prompted further inquiry. The findings stated that Carson and Jarkas allowed their firm to conduct a securities business with insufficient net capital, and Carson filed inaccurate FOCUS reports that materially misstated the firm's net capital position. The firm's FOCUS reports failed to take into account the fact that because it engaged in proprietary trading, the firm was required to maintain a minimum net capital of \$100,000, rather than \$50,000. Further, the firm's FOCUS report failed to include large payroll tax liabilities that were memorialized in an Internal Revenue Service (IRS) tax lien. Had the net capital requirement been properly included, it would have shown the firm was operating with insufficient net capital. Jarkas knew or should have known that there were errors in the firm's net capital computations and that his proprietary trading would cause the firm to have a higher net capital requirement. The findings also stated that Carson caused his firm to fail to notify the regulatory authorities that it had insufficient net capital and he failed to file the required notice following FINRA's notification to Carson that the firm had a net-capital deficiency.

The findings also included that Jarkas failed to file an application to seek FINRA's approval of a material change in the firm's business operations. The firm's Membership Agreement, which Jarkas signed, stated that it would maintain a minimum net capital requirement of \$50,000, that it would engage in specified types of business that did not include proprietary trading, and also that it would file a written notice and application with FINRA at least 30 days before effecting a material change in its business operations. The firm held numerous overnight positions in its retail average price account, putting the firm at risk and increasing the firm's net capital requirement. Nonetheless, Jarkas failed to file the required application for approval to engage in such proprietary trading. FINRA found that Jarkas failed to appear for testimony.

This matter has been appealed to the NAC and the sanctions are not effect pending review. ([FINRA Case #2009017899801](#))

**John Joseph Misulia (CRD #5330650, Associated Person, New York, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Misulia converted a total of \$5,683.31 from his member firm when he charged personal expenses on a corporate credit card the firm had issued him. More than half of the improper charges occurred when Misulia was on vacation. The findings stated that the firm had never granted Misulia permission to use the corporate credit card for personal expenses. Misulia applied for and received the corporate credit card in connection with his employment at the firm. The application stated that the corporate card was to be used for business charges only, and Misulia signed the firm's credit card policy declaration, affirming he read, understood and agreed to the terms of the policy, which strictly prohibited the use of the corporate card for personal, non-business-related items. The declaration also stated that personal expenses should generally not be charged to the card and if any personal expenses are charged, Misulia shall settle them in a timely manner by providing a reimbursement check to the firm. The firm paid for the personal charges



Misulia incurred on his corporate credit card and despite written demands from the firm, Misulia never reimbursed the firm.

This matter has been appealed to the NAC and the sanction is not in effect pending review. ([FINRA Case #2011029262201](#))

**Kam Poi Yee (CRD #2393601, Registered Representative, Edison, New Jersey)** was fined \$7,500 and suspended from association with any FINRA member in any capacity for 10 business days. The fine shall be due and payable on Yee's return to the securities industry. The sanctions were based on findings that Yee falsely attested that she had confirmed a request for a fund transfer with a customer and as a result, caused her member firm's books and records to be inaccurate. The findings stated that Yee processed the fund transfer request that she thought a customer had sent, but the transfer request was actually sent by an imposter who hacked into the customer's email. In order to finalize the transfer of funds, and to accommodate what she believed in good faith to be the customer's wishes, Yee provided a false attestation in her firm's electronic wire transfer system. In reliance upon Yee's attestation and the information the imposter provided, the firm wired the funds from the customer's account to the account the imposter specified. The imposter requested a second transfer and at that point, Yee and the adviser she assisted became suspicious. Yee and the adviser brought the incident to a branch manager after they determined the signature on the letter of authorization (LOA) did not match the customer's signature on file. As a result, the firm investigated the incident and terminated Yee based on her false attestation. Yee initially represented that she mistakenly checked the box attesting that she had spoken with the customer and later volunteered that she did so knowingly.

This matter has been appealed to the NAC and the sanctions are not in effect pending review. ([FINRA Case #2011029227701](#))

## Complaints Filed

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

**Christopher Edward Clements (CRD #1695798, Registered Representative, Darien, Connecticut)** was named a respondent in a FINRA complaint alleging that he submitted false expense reports to his member firm claiming he was owed reimbursement for approximately \$9,000 in charges for car mileage and tolls, when in fact he had not incurred those expenses. By obtaining and accepting approximately \$9,000 from the firm as

reimbursement for the false travel-related expenses, Clements converted funds from his firm. (FINRA Case #2011028107201)

**Paul Charles Dotson (CRD #2314498, Registered Principal, Darien, Connecticut)** was named a respondent in a FINRA complaint alleging that he knew, or had reason to know, that the information he possessed that a research analyst at his member firm had conveyed to him was improperly obtained. The complaint alleges that Dotson, while in knowing possession of the material, non-public information, intentionally or recklessly purchased a company's stock. Dotson's conduct willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. The complaint also alleges that Dotson signed annual certifications attesting that he had read and understood his firm's Insider Trading Policy. Dotson violated his firm's Insider Trading Policy by purchasing shares of the company and by not contacting the Compliance Department when he had received the information from the research analyst. (FINRA Case #2009020803102)

**Michael Andrew Fletcher (CRD #1283388, Registered Representative, Falls Church, Virginia)** was named a respondent in a FINRA complaint alleging that he willfully failed to amend his Form U4 to disclose the material fact that he had been charged with a felony and that he failed to amend his Form U4 to disclose the material fact that a lien had been filed against him. (FINRA Case #2012034384701)

**Joseph Michael Keegan (CRD #5494745, Registered Representative, Delanco, New Jersey)** was named a respondent in a FINRA complaint alleging that he failed to timely and completely respond to FINRA requests for documents and information. The complaint alleges that Keegan's member firm filed a Form U5 reporting that its affiliate bank discharged Keegan because he had divided deposits in a structured manner and issued a debit card for a bank customer, which he used to make deposits into the bank customer's account. During the course of FINRA's investigation of Keegan's activities as the firm reported, FINRA had requested that he provide documents and information concerning the structuring allegations. (FINRA Case #2012033201402)

**NSM Securities, Inc. (CRD #134357, West Palm Beach, Florida), Niyukt Raghu Bhasin (CRD #2282048, Registered Principal, Wellington, Florida), Shondeep Sajan Balchandani (CRD #5165930, Registered Representative, West Palm Beach, Florida) and Naveen K. Bhagwani (CRD #5423037, Registered Representative, West Palm Beach, Florida)** were named respondents in a FINRA complaint alleging that the firm, acting through and at the direction of its founder, owner, President, and CEO Bhasin, derived most of its revenue from actively and aggressively trading stocks in the commission-based accounts of its retail customers. The complaint alleges that Bhasin prioritized his firm's profits over the duties owed to its customers and chose not to establish a supervisory system tailored to the firm's business. Instead, Bhasin fostered a culture of non-compliance that resulted in widespread sales practice violations, numerous customer complaints, related reporting violations and cold-calling abuses. The firm and Bhasin failed to establish and maintain a

supervisory system that was reasonably designed to achieve compliance with applicable securities laws and regulations and NASD/FINRA rules, and failed to monitor for, detect and investigate red flags suggestive of misconduct by the firm's brokers. The firm and Bhasin failed to establish, maintain and enforce WSPs to supervise its business, including its active and aggressive investment strategy, and supervise its registered and associated persons, that were reasonably designed to achieve compliance with applicable securities laws and regulations and NASD/FINRA rules. The WSPs were deficient in several key areas relative to its business in that they failed to define excessive trading, failed to provide guidance on how the firm would monitor for excessive trading and churning, failed to define which customers would receive letters regarding the activity in their accounts and when and why such letters would be sent to customers, and failed to provide guidance on monitoring for unsuitable recommendations. The complaint also alleges that the firm failed to put Balchandani, Bhagwani and other brokers on heightened supervision. As a result of the grossly inadequate supervisory system Bhasin established, many firm customers suffered significant losses. The firm, acting through Bhagwani and Balchandani, engaged in unauthorized trading in customer accounts, churned and excessively traded customer accounts, and recommended qualitatively unsuitable investments to customers without having reasonable grounds to believe that the recommendations were suitable for the customers based on their disclosed security holdings and financial situation and needs.

In connection with the purchases and sales of securities, the firm, acting through Bhagwani, intentionally, or at the least recklessly, made untrue statements of material facts to customers. The firm, Bhagwani, and Balchandani willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The firm is liable for Balchandani's and Bhagwani's fraudulent misconduct under the doctrine of respondent superior and as a control person under Section 20(a) of the Securities Exchange Act of 1934. Bhagwani falsified a document and committed forgery by creating a Letter of Instruction and by signing customers' names to it, without their authority or consent. The complaint further alleges that the firm, through Balchandani and others, improperly made a practice of effecting trades in the cash account of customers where the cost to buy the securities was met by the sale of the same securities and/or allowing customers to meet Regulation T margin calls by liquidating the same or other commitments in the accounts.

In addition, the complaint alleges that the firm and Bhasin failed to report and failed to timely report customer complaints to FINRA. Bhasin willfully failed to disclose material facts or information on his Form U4, and willfully filed false and misleading amendments to his Form U4 wherein he failed to disclose arbitrations. The firm and Bhasin failed to file and timely file Form U4 amendments, failed to timely file a Form U5 amendment, and untimely filed a Form U5 amendment with false information. Moreover, the complaint alleges that the firm, through Bhasin, failed to institute adequate procedures to prevent telephone solicitations to persons whose numbers were on the firm-specific and national do-not-call lists. Firm brokers or representatives made telephone solicitations to persons

whose numbers were already on the firm's do-not-call list, as evidenced by the fact that those numbers were added to the list again after their first appearance on the list. ([FINRA Case #2011027667402](#))

### 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 Harold Watkins (CRD #2390939)**

Garland, Texas

(February 3, 2014)

FINRA Case #2009018771602

### Complaint Dismissed

(FINRA issued the following complaint, which represented FINRA's initiation of a formal proceeding. The findings as to the allegations were not made, and the Hearing Officer has subsequently ordered that the complaint be dismissed.)

**Gregg N. Nussbaum (CRD #2020751)**

Deerfield, Florida

(February 14, 2014)

FINRA Case #2013038444701

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

**Sicor Securities Inc (CRD #16195)**  
Dayton, Ohio  
(February 1, 2014)  
FINRA Case #2012030718001

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

**NSM Securities, Inc. (CRD #134357)**  
West Palm Beach, Florida  
(February 20, 2014)

**OC Securities, Inc. (CRD #133264)**  
Capistrano Beach, California  
(February 5, 2014)

**Vert Securities, LLC (CRD #153270)**  
Houston, Texas  
(February 21, 2014)

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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.)**

**Ryan Gordon Alexander (CRD #6116172)**  
Palmyra, Pennsylvania  
(February 11, 2014)  
FINRA Case #2013036689401

**John Grant Armistead III (CRD #1037854)**  
Dover, Delaware  
(February 11, 2014)  
FINRA Case #2013035554001

**Erika Blair Buchanan (CRD #5446381)**  
Charleston, West Virginia  
(February 24, 2014)  
FINRA Case #2013037382501

**John Stanley Clabaugh Jr. (CRD #863445)**  
Lincoln, Nebraska  
(February 28, 2014)  
FINRA Case #2013037978801

**Glen Allan Glemmo (CRD #2399152)**  
Cincinnati, Ohio  
(February 10, 2014)  
FINRA Case #2013037799301

**James Anthony Gentile (CRD #1376794)**  
Westerville, Ohio  
(February 11, 2014)  
FINRA Case #2013037880001

**Hector Alex Hernandez (CRD #6171250)**  
Miami, Florida  
(February 3, 2014)  
FINRA Case #2013037606301

**Alex Christopher Klein (CRD #5952512)**  
Los Angeles, California  
(February 10, 2014)  
FINRA Case #2013036807801

**Joseph Anthony Lombardo (CRD #1453769)**  
Gates Mills, Ohio  
(February 24, 2014)  
FINRA Case #2013036826601

**Alexandra A. McGee (CRD #6123919)**  
Des Moines, Iowa  
(February 21, 2014)  
FINRA Case #2013038282301

**Adam Nicholas Nussbaum (CRD #6041358)**  
Arlington, Virginia  
(February 11, 2014)  
FINRA Case #2013036796701

**Mark Alan Partin (CRD #4426958)**  
London, Great Britain  
(February 21, 2014)  
FINRA Case #2013036419501

**Alec J. Rivera (CRD #5514922)**  
Chicago, Illinois  
(February 18, 2014)  
FINRA Case #2013038531701

**Gary David Rowcliffe (CRD #1021441)**  
Knoxville, Tennessee  
(February 24, 2014 – March 28, 2014)  
FINRA Case #2012034111801

**Eric Alan Schwartz (CRD #2377803)**  
Wantagh, New York  
(February 10, 2014)  
FINRA Case #2013037131501

**Alejandro Pablo Seniorino (CRD #5167762)**  
Norwalk, Connecticut  
(February 10, 2014)  
FINRA Case #2013037044901

**Laurence Mitchell Simon (CRD #424556)**  
Stamford, Connecticut  
(February 18, 2014)  
FINRA Case #2013036755401

**Justin David Thornley (CRD #6086190)**  
San Jose, California  
(February 18, 2014)  
FINRA Case #2012034186401

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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.)

**Jason Sean Harrison (CRD #2628373)**  
Pearland, Texas  
(February 26, 2014)  
FINRA Case #2009018648901

**Juan Jose Jimenez (CRD #2819718)**  
Sacramento, California  
(February 26, 2014)  
FINRA Case #2009020452901

**Gregory Lunar Merrick (CRD #2933448)**  
Tipp City, Ohio  
(February 1, 2014)  
FINRA Case #2012030718001

**Johnnie Kelsey Pope (CRD #4427758)**  
Suffolk, Virginia  
(February 1, 2014)  
FINRA Case #2009019408802

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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.)

**Robert Christian Acri (CRD #1429736)**  
Winnetka, Illinois  
(February 24, 2014 – March 31, 2014)  
FINRA Case #2013038624801

**Dion Anthony Allison (CRD #5305728)**  
Astoria, New York  
(February 24, 2014)  
FINRA Case #2013039068601

**Christopher Bryan Babbitt (CRD #6123929)**  
Santa Ana, California  
(February 18, 2014)  
FINRA Case #2013037016001

**Amy R. Cox (CRD #3274604)**  
Crossville, Tennessee  
(February 18, 2014)  
FINRA Case #2013036236201

**Gaby Delisme (CRD #4533627)**  
Tampa, Florida  
(December 2, 2013 – February 12, 2014)  
FINRA Case #2013036799901

**Lyra Badecao Estrada (CRD #5783007)**  
Houston, Texas  
(December 2, 2013 – February 27, 2014)  
FINRA Case #2013036832901

**Mark David Holt (CRD #3150622)**  
Vadnais Heights, Minnesota  
(February 10, 2014)  
FINRA Case #2013038983901

**Michael David Liebl (CRD #3264044)**  
Keene, New Hampshire  
(February 28, 2014)  
FINRA Case #2012034698601

**Leslie Ann Ingram Miller (CRD #4451742)**  
Edina, Minnesota  
(February 27, 2014)  
FINRA Case #2013037408501

**Imran M. Nasrullah (CRD #5168010)**  
Westbury, New York  
(February 10, 2014)  
FINRA Case #2013039572401

**Julia Lee Saephan (CRD #6014846)**  
Beaverton, Oregon  
(February 18, 2014)  
FINRA Case #2013038754901

**Pamela Stephens Williams (CRD #4845225)**  
Columbus, Georgia  
(February 24, 2014)  
FINRA Case #2012034132001

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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.)

**Cynthia Marie Barrera (CRD #4289418)**  
Corpus Christi, Texas  
(February 12, 2014)  
FINRA Arbitration Case #11-02570

**Joseph Anthony Carpenter Jr. (CRD #4998111)**  
Palm Harbor, Florida  
(February 25, 2014)  
FINRA Arbitration Case #13-00842

**Brian P. Carr (CRD #2577346)**  
Madison, New Jersey  
(February 25, 2014)  
FINRA Arbitration Case #11-03427

**Anthony E. Carter Jr. (CRD #5539798)**  
Manhattan Beach, California  
(February 12, 2014)  
FINRA Arbitration Case #12-02471

**Fernando Castillo (CRD #2616324)**  
Sugar Land, Texas  
(February 25, 2014)  
FINRA Arbitration Case #12-00299

**Allen Wayne Chaves (CRD #3114337)**  
Stillwater, Minnesota  
(July 11, 2013 – February 24, 2014)  
FINRA Arbitration Case #12-00192

**Evelyn Correa (CRD #2553480)**  
Miami, Florida  
(February 11, 2014)  
FINRA Arbitration Case #13-00165

**Daniel Joseph Crowley (CRD #2013600)**  
New Canaan, Connecticut  
(February 19, 2014)  
FINRA Arbitration Case #13-00285

**Paul Andrew Fischetti (CRD #2300161)**  
Palm Harbor, Florida  
(February 11, 2011 – February 10, 2014)  
FINRA Arbitration Case #09-04380



**Robert D. Hassell (CRD #1283902)**  
Indianapolis, Indiana  
(November 4, 2010 – February 6, 2014)  
FINRA Arbitration Case #10-01090

**Donald Horton Hunter Jr. (CRD #1849030)**  
Ridgefield, Connecticut  
(February 25, 2014)  
FINRA Arbitration Case #09-06840

**Howard Lawrence Isaacson (CRD #3221838)**  
Naples, Florida  
(February 12, 2014)  
FINRA Arbitration Case #13-01597

**Donna Marie Jenkins (CRD #2156974)**  
St. Petersburg, Florida  
(February 11, 2014)  
FINRA Arbitration Case #11-04549

**Mark William Kaplowitz (CRD #824379)**  
Bridgewater, New Jersey  
(February 5, 2014)  
FINRA Arbitration Case #11-04481

**Emmanuel Kouyoumdjian (CRD #4121199)**  
Sunrise, Florida  
(February 12, 2014)  
FINRA Arbitration Case #12-03266

**Donald James McBirney (CRD #1323985)**  
Piedmont, California  
(February 11, 2014)  
FINRA Arbitration Case #13-01075

**Katrina Marie McCabe (CRD #4352540)**  
Tierra Verde, Florida  
(February 25, 2014)  
FINRA Arbitration Case #13-00817

**Christopher William Oster (CRD #4675681)**  
Sacramento, California  
(February 11, 2014)  
FINRA Arbitration Case #12-02241

**Melvin Lee Peterson (CRD #859600)**  
Pacifica, California  
(February 12, 2014)  
FINRA Arbitration Case #11-00189

**Jeffrey Rachlin (CRD #823547)**  
Pleasantville, New York  
(February 5, 2014)  
FINRA Arbitration Case #11-04481

**Andrew Scott Rosenbaum (CRD #2593348)**  
Boynton Beach, Florida  
(February 12, 2014)  
FINRA Arbitration Case #13-01682

**Naseem Mohammed Salamah (CRD #4907349)**  
Rockford, Illinois  
(February 12, 2014)  
FINRA Arbitration Case #13-01325

**Richard Patrick Sandru (CRD #2470082)**  
Fort Myers, Florida  
(February 12, 2014)  
FINRA Arbitration Case #13-01224

**Catherine Rose Sweeney (CRD #1659798)**  
Oxnard, California  
(February 25, 2014)  
FINRA Arbitration Case #12-03098

**Jeffrey Leo Wesson (CRD #1806385)**  
Mont Vernon, New Hampshire  
(February 11, 2014)  
FINRA Arbitration Case #13-00844

## **FINRA Fines Brown Brothers Harriman a Record \$8 Million for Substantial Anti-Money Laundering Compliance Failures**

**Highest Fine Levied by FINRA for AML-Related Violations; Former AML Compliance Officer Also Fined and Suspended**

The Financial Industry Regulatory Authority (FINRA) fined New York-based Brown Brothers Harriman & Co. (BBH) \$8 million for substantial anti-money laundering compliance failures including, among other related violations, its failure to have an adequate anti-money laundering program in place to monitor and detect suspicious penny stock transactions. BBH also failed to sufficiently investigate potentially suspicious penny stock activity brought to the firm's attention and did not fulfill its Suspicious Activity Report (SAR) filing requirements. In addition, BBH did not have an adequate supervisory system to prevent the distribution of unregistered securities. BBH's former Global AML Compliance Officer Harold Crawford was also fined \$25,000 and suspended for one month.

Penny stock transactions pose heightened risks because low-priced securities may be manipulated by fraudsters. FINRA found that from Jan. 1, 2009, to June 30, 2013, BBH executed transactions or delivered securities involving at least six billion shares of penny stocks, many on behalf of undisclosed customers of foreign banks in known bank secrecy havens. BBH executed these transactions despite the fact that it was unable to obtain information essential to verify that the stocks were free trading. In many instances, BBH lacked such basic information as the identity of the stock's beneficial owner, the circumstances under which the stock was obtained, and the seller's relationship to the issuer. Penny stock transactions generated at least \$850 million in proceeds for BBH's customers.

Brad Bennett, FINRA Executive Vice President, Enforcement, said, "The sanction in this case reflects the gravity of Brown Brothers Harriman's compliance failures. The firm opened its doors to undisclosed sellers of penny stocks from secrecy havens without regard for who was behind those transactions, or whether the stock was properly registered or exempt from registration. This case is a reminder to firms of what can happen if they choose to engage in the penny stock liquidation business when they lack the ability to manage the risks involved."

FINRA also found that although BBH was aware that customers were depositing and selling large blocks of penny stocks, it failed to ensure that its supervisory reviews were adequate to determine whether the securities were part of an illegal unregistered distribution. FINRA [\*Regulatory Notice 09-05\*](#) discusses "red flags" that should signal a firm to closely scrutinize transactions to determine whether the stock is properly registered or exempt from registration, or whether it is being offered illegally. BBH customers deposited and sold penny stock shares in transactions that should have raised numerous red flags.

In concluding [these settlements](#), BBH and Crawford neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

FINRA's investigation was conducted by the Member Regulation, Office of Fraud Detection and Market Intelligence, and Enforcement departments.

Crawford's suspension was in effect from March 3, 2014, through April 2, 2014.

### **FINRA Fines Berthel Fisher and Affiliate, Securities Management & Research, \$775,000 for Supervisory Failures Related to Sales of Non-Traded REITs and Leveraged and Inverse ETFs**

The Financial Industry Regulatory Authority (FINRA) fined Berthel Fisher & Company Financial Services, Inc. and its affiliate, Securities Management & Research, Inc., of Marion, Iowa, a combined \$775,000 for supervisory deficiencies, including Berthel Fisher's failure to supervise the sale of non-traded real estate investment trusts (REITs), and leveraged and inverse exchange-traded funds (ETFs). As part of the settlement, Berthel Fisher must retain an independent consultant to improve its supervisory procedures relating to its sale of alternative investments.

Brad Bennett, FINRA's Executive Vice President of Enforcement, said, "A strong culture of compliance is an essential element of the proper marketing of complex products. Berthel's supervision of the sales of non-traded REITs, inverse ETFs and other products fell short of this standard, as it failed to ensure that its registered representatives understood the unique features and risks of these products before presenting them to retail clients."

FINRA found that from January 2008 to December 2012, Berthel Fisher had inadequate supervisory systems and written procedures for sales of alternative investments such as non-traded REITs, managed futures, oil and gas programs, equipment leasing programs and business development companies. In some instances, the firm failed to accurately calculate concentration levels for alternative investments, thus, the firm did not correctly enforce suitability standards for a number of the sales of these investments. Berthel Fisher also failed to train its staff on individual state suitability standards, which is part of the suitability review for certain alternative investment sales.

FINRA also found that from April 2009 to April 2012, Berthel Fisher did not have a reasonable basis for certain sales of leveraged and inverse ETFs. The firm did not adequately research or review non-traditional ETFs before allowing its registered representatives to recommend them to customers, and failed to provide training to its sales force regarding these products. The firm also failed to monitor the holding periods of these investments by customers, resulting in some instances in customer losses.

In settling [this matter](#), Berthel Fisher and Securities Management & Research neither admitted nor denied the charges, but consented to the entry of FINRA's findings.