

Disciplinary and Other FINRA Actions

Firms Fined, Individuals Sanctioned

First Financial Equity Corporation (CRD® #16507, Scottsdale, Arizona) and George Edward Fischer (CRD #1315706, Registered Principal, Scottsdale, Arizona) submitted an Offer of Settlement in which the firm was censured and fined \$20,000. Fischer was fined \$20,000 and suspended from association with any FINRA® member in any principal capacity for 15 business days. Without admitting or denying the allegations, the firm and Fischer consented to the described sanctions and to the entry of findings that Fischer, acting on the firm's behalf, approved registered representatives' participation away from the firm in raising capital for a company by selling its stock, but imposed conditions on their participation and required that the stock certificates not bear restrictive legends. The findings stated that Fischer failed to take reasonable steps to monitor or determine compliance with these conditions, including conducting an inquiry of "red flags" that suggested violations of federal securities laws; Fischer failed to detect and prevent the representatives' distribution of unregistered securities in their capacity as underwriters. The findings also stated that although Fischer was aware these transactions constituted private securities transactions for compensation, he did not cause the firm to record the transactions on its books and records and supervise them as if they were firm transactions. The findings also included that Fischer failed to supervise the registered representatives in a manner reasonably designed to achieve compliance with applicable laws, rules and regulations. FINRA found that the firm, acting through Fischer, failed to supervise and record the representatives' private securities transactions.

The suspension was in effect from November 16, 2009, through December 7, 2009. (FINRA Case #2006004707201)

Martinez-Ayme Securities (CRD #109838, Miami, Florida) and Alfredo Francisco Ayme (CRD #1531433, Registered Principal, Cutler Bay, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$21,000. Ayme was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for three months. Without admitting or denying the findings, the firm and Ayme consented to the described sanctions and to the entry of findings that the firm's anti-money laundering (AML) program required the firm and Ayme to monitor for potentially suspicious activity and AML red flags, investigate potentially suspicious activity and report suspicious activity by filing a Form SAR-SF with the U.S. Department of the Treasury's Financial

Reported for December 2009

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).

Crimes Network. The findings stated that the firm and Ayme failed to adequately implement or enforce its AML program and to otherwise comply with their AML obligations since they did not identify and analyze numerous transactions to determine if they were in fact suspicious, which would require them to be reported on a Form SAR-SF. The findings also stated that the firm and Ayme permitted suspicious activities to occur undetected and unchecked and failed to file SAR-SFs as appropriate. The findings also stated that the firm conducted tests for compliance with applicable AML laws, rules and regulations, but these tests were not independent since they were conducted by a firm employee who performed AML functions as part of his regular job responsibilities. The findings also included that the firm acted as the placement agent for contingency securities offerings and failed to establish escrow or separate bank accounts in connection with the offerings, and investors were directed to transmit their funds directly to the issuers prior to the contingency being satisfied.

FINRA found that the firm failed to satisfy the minimum contingency for one offering by the closing date, but the offering was not terminated, investor funds were not returned and the offering period was extended. FINRA also found that the firm raised additional funds but failed to send written reconfirmation offers to subscribers disclosing the extension of the offering prior to the closing date, thereby willfully violating Section 10(b) of the Securities Exchange Act, Rule 10b-9 thereunder and NASD® Rule 2110. In addition, FINRA determined that the firm used the instrumentalities of interstate commerce to conduct a securities business while failing to maintain its minimum required net capital.

The suspension is in effect from November 16, 2009, through February 15, 2010.
(FINRA Case #2009016159201)

Firm and Individual Fined

Sicor Securities, Inc. (CRD #16195, Dayton, Ohio) and Gregory Lunar Merrick (CRD #2933448, Registered Principal, Tipp City, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Merrick were censured and fined \$10,000, jointly and severally. The firm was fined an additional \$20,000. Without admitting or denying the findings, the firm and Merrick consented to the described sanctions and to the entry of findings that the firm, acting through Merrick, failed to prepare accurate net capital computations by erroneously treating a portion of a receivable as an allowable. As a result, the firm failed to file accurate Financial and Operational Combined Uniform Single (FOCUS™) reports. The findings stated that, as a result of the firm's failure to treat an arbitration award as a liability, the firm, acting through Merrick, used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities while failing to maintain its minimum net capital requirement. The findings also stated that the firm, acting through Merrick, prepared inaccurate net capital computations and filed an inaccurate FOCUS Part IIA Report.
(FINRA Case #2007009773001)

Firms Fined

Barclays Capital Inc. (CRD #19714, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report short interest positions in numerous securities to NASD nka FINRA. The findings stated that the firm failed to report transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of the execution time and failed to report the correct trade execution time for TRACE-eligible securities transactions. The findings also stated that the firm failed to show the correct execution time on brokerage order memoranda. **(FINRA Case #2006004056501)**

CIBC World Markets Corp. (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in over-the-counter (OTC™) equity securities to the OTC Reporting Facility (OTCRF), and failed to designate several of them as late. The findings stated that the firm reported last sale reports of transactions in OTC equity securities that it was not required to report. **(FINRA Case #2008014189301)**

First Financial Equity Corporation (CRD #16507, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding purchase and sale transactions of auction rate products 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 findings stated that the firm failed to report the special condition indicator to an RTRS Portal for each instance when the firm claimed a deadline extension for trade reporting. **(FINRA Case #2007011402001)**

Goldman, Sachs & Co. (CRD #361, New York, New York) 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 effected transactions in securities while a trading halt was in effect for each of the securities. **(FINRA Case #2007008660101)**

Goldman Sachs Execution & Clearing, L.P. (CRD #3466, Jersey City, New Jersey) 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 effected transactions in securities while a trading halt was in effect with respect to each of the securities. **(FINRA Case #2007011935201)**

Goldman Sachs Execution & Clearing, L.P. (CRD #3466, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$24,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to the

Order Audit Trail System (OATS™) that contained inaccurate, incomplete or improperly formatted data, in that the reports contained either inaccurate special handling codes or inaccurate order type codes. The findings stated that the firm failed to provide written notification disclosing its correct capacity in transactions to its customers and failed, on other occasions, to provide written notification disclosing to its customers that transactions were executed at an average price. (FINRA Case #2008014130801)

Mesirow Financial, Inc. (CRD #2764, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its clearing agreement with correspondent firms impermissibly allocated the detection and reporting of suspicious activity with respect to trading activities of introduced customer securities accounts to the introducing correspondent firms. The findings stated that because the Bank Secrecy Act imposes an independent obligation to detect and report suspicious activity on all broker-dealers, the firm's AML program was not reasonably designed to detect and cause the reporting of suspicious trading activity in customer accounts. (FINRA Case #2008012747801)

Morgan Stanley & Co. Incorporated (CRD #8209, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$120,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that branch offices utilized communications that failed to provide either adequate balancing language or a sound basis for evaluating the information provided. The findings stated that the communications contained statements that were promissory of successful investment results and contained exaggerated, misleading or unwarranted statements. The findings also stated that the firm's communications contained oversimplified and incomplete comparisons, failed to disclose the member firm's name, and failed to provide required Securities and Exchange Commission (SEC) or Securities Industry Protection Corporation (SIPC) disclosures in conformance with SEC and/or SIPC rules. (FINRA Case #2007011134001)

Park Avenue Securities, LLC (CRD #46173, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely file amendments to Uniform Applications for Securities Industry Registration or Transfer (Forms U4) or Uniform Termination Notices for Securities Industry Registration (Forms U5). The findings stated that the firm failed to enforce its written supervisory procedures relating to its direct mutual fund and 529 Plan business concerning switch letters and breakpoint worksheets compliance. (FINRA Case #2007010095201)

Perrin, Holden and Davenport Capital Corporation, dba PHD Capital (CRD #38785, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$30,000 and required to have its registered representatives register for three hours of AML training within 60 days of issuance of this AWC, and complete such training within six months of issuance of this AWC. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, although it had an established Customer Identification Program (CIP),

its internal controls for ensuring compliance were not sufficient to detect or prevent multiple failures to obtain and verify required customer identification information. The findings stated that the firm failed to obtain required customer identification information for certain accounts, failed to confirm that sufficient documentary and/or non-documentary verification information was obtained prior to approving the accounts, and failed to restrict transactions in certain deficient accounts 30 days or more after opening. **(FINRA Case #2007008158601)**

Seattle-Northwest Securities Corporation (CRD #10639, Seattle, Washington)

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 keep accurate books and records in that it improperly prepared its required books and records on a combined basis, did not include unreconciled, aged suspense credits in the Customer Reserve Formula, and failed to prepare weekly Customer Reserve Formula computations. The findings stated that the firm prepared its books and records on a combined basis with its affiliated registered and non-registered entities although it did not meet Exchange Act Rule 15c3-1c(a) requirements and failed to obtain a required opinion from outside counsel. The findings also stated that the firm was unable to determine the impact of the combination on its regulatory net capital. The findings also included that the firm did not properly calculate its Customer Reserve Formula computation and incurred hindsight Customer Reserve Formula deficiencies.

FINRA found that the firm overstated its net capital because it improperly netted unreconciled suspense balances and applied the resulting credit as a reduction to non-allowable interest receivables. FINRA also found that the firm filed inaccurate FOCUS reports that incorrectly reported its net capital and reported the combined, rather than the separate assets and liabilities of the firm and its actively operating subsidiaries. **(FINRA Case #2008015927601)**

TransAm Securities, Inc. (CRD #18923, Altamonte Springs, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain and enforce a supervisory system and procedures reasonably designed to preserve and review its business-related electronic communications. The findings stated that the firm's electronic media storage system was deficient in that electronic business-related communications could be deleted from the system prior to being preserved in the requisite non-rewriteable, non-erasable format. The findings also stated that the firm allowed its associated persons to use outside email addresses to send or receive electronic business-related communications, but the firm's system did not preserve communications from outside email addresses unless the communications were sent from or forwarded to a firm-provided email address, and the firm did not require its associates to route all business-related communications from outside email addresses through its system. The findings also included that the firm did not have written procedures in place to ensure that its associated persons were routing all electronic business-related communications sent from or received in outside email addresses through the system. **(FINRA Case #2008011723701)**

ViewTrade Securities, Inc. (CRD #46987, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly implement its AML compliance program, insofar as it did not monitor corporate accounts brought to the firm from a defunct broker-dealer by registered representatives for red flags and did not identify potentially suspicious activity for further due diligence. The findings stated that a registered representative at the firm sent business-related emails from a non-firm email address that were not maintained on the firm's server in a non-rewritable, non-erasable format, but were obtained from the representative's computer, where they could have been deleted or lost. **(FINRA Case #2008011725001)**

Whitaker Securities LLC (CRD #121465, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to RTRS within 15 minutes of the trade time to an RTRS Portal. **(FINRA Case #2009018116701)**

Individuals Barred or Suspended

Dean Jay Abbinanti (CRD #2524648, Registered Representative, Redondo Beach, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, which includes disgorgement of \$2,331.69 in commissions received, and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Abbinanti'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, Abbinanti consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, equity transactions in a customer's account on a discretionary basis without the customer's prior written authorization to exercise discretion and without his member firm's written acceptance of the account as discretionary. The findings stated that Abbinanti completed a firm compliance questionnaire and, in response to the question concerning the handling of any accounts on a discretionary basis, he answered "no."

The suspension is in effect from October 19, 2009, through December 17, 2009. **(FINRA Case #2008014894001)**

Mayra Jeanette Angulo (CRD #2221337, Registered Representative, Tucson, Arizona) and Mark Islas (CRD #1953882, Registered Representative, Tucson, Arizona) were barred from association with any FINRA member in any capacity. The sanctions were based on findings that Angulo and Islas failed to respond to FINRA requests for information. The findings stated that Angulo failed to amend her Form U4 to disclose material information and completed an annual firm compliance questionnaire in which she certified that the information on her Form U4 was current and accurate. **(FINRA Case #2007011159501)**

Michael Andrew Betten (CRD #1657650, Registered Representative, Hamilton, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Betten'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, Betten consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation of approximately \$251,616.18, without providing prompt written notice to his member firm on the annual certification statement or in any other written form. The findings stated that Betten falsely asserted on annual certification statements that he was not engaged in any undisclosed outside business activities.

The suspension is in effect from November 2, 2009, through March 1, 2010. **(FINRA Case #2008013430901)**

Thomas Earl Brand (CRD #1924829, Registered Representative, Waterford, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Brand consented to the described sanction and to the entry of findings that he engaged in an outside business activity, and received \$13,950 in commission, contrary to his member firm's rules and procedures. The findings stated that Brand also completed an outside business activity form stating that he had no outside businesses to report. The findings also stated that Brand failed to respond, and respond completely, to FINRA requests for information and failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008013307301)**

Michael Glenn Buhrmester nka Michael Christopher Ryan (CRD #5323526, Associated Person, Kirkland, Washington) was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine is due and payable if and when Buhrmester applies to associate with a member firm following the end of his suspension. The sanctions were based on findings that Buhrmester failed to disclose material information on his Form U4.

The suspension was in effect from November 2, 2009, through December 14, 2009. **(FINRA Case #2007010189201)**

Michelle Ruth Damon (CRD #1175791, Registered Representative, Apple Valley, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Damon consented to the described sanctions and to the entry of findings that she exercised discretion in customers' accounts without having obtained written customer authorization that her firm would find acceptable. The findings stated that Damon exercised time and price discretion after the business day on which the customer granted such discretion without the customer's written authorization.

The suspension was in effect from November 16, 2009, through November 30, 2009. **(FINRA Case #2007010593201)**

Peter Christian Dunne (CRD #2538317, Registered Representative, Medford, New York) submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Dunne's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Dunne consented to the described sanctions and to the entry of findings that he posted electronic messages on an Internet message board concerning a company which constituted advertisements on his member firm's behalf. The findings stated that Dunne posted the advertisements without a registered principal's prior approval and none of the advertisements named the firm or reflected Dunne's relationship with the firm. The findings also stated that the advertisements constituted purchase recommendations for the company and failed to provide, or offer to furnish upon request, available investment information supporting each recommendation; failed to disclose that Dunne's firm was a market maker in the company; that the firm and/or its officers or partners had a financial interest in the company, the nature of the financial interest; and failed to provide a fair and balanced assessment, referring only to the company's upside without any disclosure of the risks. The findings also included that Dunne opened securities brokerage accounts at other firms, failed to notify the firms in writing that he was associated with other firms, and failed to notify his member firms in writing that he opened accounts at other firms. FINRA found that Dunne falsely represented to his member firms that he had no outside brokerage accounts and did not use or participate in chat rooms, message boards or other unapproved electronic communications.

The suspension is in effect from November 16, 2009, through November 15, 2010.
(FINRA Case #2007011937002)

David Richard Eldredge (CRD #2987283, Registered Principal, Falmouth, Massachusetts) 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, Eldredge consented to the described sanction and to the entry of findings that he participated in private securities transactions without giving prior written notice to, or obtaining prior written approval from, his member firms. With respect to one of those private securities transactions, Eldredge's investment recommendation was unsuitable in that the customer funded the transaction by mortgaging his personal residence. The findings also stated that Eldredge engaged in outside business activities without providing prompt written notice to one of his member firms. In addition, the findings included that Eldredge failed to provide FINRA with requested documents.
(FINRA Case #2007011355401)

Anthony Brent Faithauer (CRD #4538315, Registered Representative, Brenham, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Faithauer consented to the described sanction and to the entry of findings that he misappropriated approximately \$853,795 from customers for his own personal benefit. The findings stated that Faithauer misappropriated the funds by forging customers' signatures on checks, distribution forms and withdrawal slips without their knowledge or authorization and by converting insurance premiums and funds

surrendered from a customer's fixed annuity. The findings also stated that Faithauer borrowed \$90,000 from a customer contrary to his member firm's written procedures that prohibited registered representatives from borrowing money or securities from customers under any circumstances. The findings also included that Faithauer failed to respond to FINRA requests for information. **(FINRA Case #2008016455601)**

Brian John Fest (CRD #2422725, Registered Representative, West Des Moines, Iowa) and Traci Ann Thomason (CRD #4433725, Registered Representative, Johnston, Iowa) submitted Letters of Acceptance, Waiver and Consent in which they were barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Fest and Thomason consented to the described sanctions and to the entry of findings that they did not provide customers with complete written disclosure of material terms of transactions before they entered into them, including surrender charges paid, sales charges incurred on new investments and optional riders selected on annuities. The findings stated that Fest's and Thomason's member firm required that registered representatives obtain a customer's signature on transaction documents after they were completed to evidence that the customer was aware of the disclosures in those documents. The findings also stated that Fest had clients sign blank transaction documents, which he had Thomason complete later with inaccurate information, including inaccurate sales charges and incorrect rationale for transactions, and submitted the documents to his firm without the clients' review. The findings also included that Fest provided inaccurate and misleading information to FINRA staff during on-the-record testimony and attempted to persuade Thomason to corroborate his inaccurate testimony. FINRA found that Fest's pattern of recommending short-term unit investment trust trading in his customer's accounts was unsuitable **(FINRA Cases #2005002244303 / #2005002244302)**

Timothy Terrence Freeman (CRD #1854731, Registered Representative, Silver Spring, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for three months. In light of Freeman's financial status, no fine was imposed. Without admitting or denying the findings, Freeman consented to the described sanctions and to the entry of findings that he misused funds that were not his by charging personal expenses on his corporate credit card, in violation of his member firm's policies, and not making payment when it was due. The findings stated that Freeman's member firm did not authorize the charges and paid the outstanding balance of approximately \$2,000 on Freeman's corporate card after he failed to pay the bill for over six months.

The suspension is in effect from October 19, 2009, through January 18, 2010. **(FINRA Case #2008014928501)**

Rodrigo Gehara (CRD #5279272, Registered Representative, Bellport, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Gehara'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, Gehara consented to the described sanctions and to the entry of findings that he borrowed approximately \$12,660 from

a friend who was also a public customer, in violation of his member firm's written procedures, which prohibited its registered representatives from borrowing money or securities from customers who were not immediate family members.

The suspension was in effect from November 16, 2009, through November 30, 2009. **(FINRA Case #2008016179701)**

Andrew Paul Gonchar (CRD #1659516, Registered Representative, Staten Island, New York) and Polyvios Tony Polyviou (CRD #1659532, Registered Representative, Upper Saddle River, New Jersey) were each fined \$114,022 and barred from association with any FINRA member in any capacity. The SEC affirmed sanctions following the appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that Gonchar and Polyviou fraudulently interpositioned a third-party account between their member firm and retail customers in convertible bond trades and charged the customers undisclosed fraudulently excessive markups.

This decision has been appealed to the United States Court of Appeals for the Second Circuit. The bars are in effect pending consideration of the appeal. **(FINRA Case #CAF20040058)**

Timothy Paul Hackett (CRD #4736756, Registered Representative, Riverview, 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, Hackett consented to the described sanction and to the entry of findings that he placed day trades in his personal brokerage account that he maintained at the firm, which resulted in a margin deficiency in that account. The findings stated that Hackett had insufficient assets to satisfy the margin deficiency and, in an effort to satisfy the margin deficiency, accessed one of the firm's back office systems and transferred approximately \$6,129 from the firm's general ledger account into his personal account. The findings also stated that Hackett failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008013227301)**

Peter Herbert Hackstedde (CRD #2107093, Registered Representative, Kamuela, Hawaii) and Ross William Sindelar (CRD #2729154, Registered Representative, Scottsdale, Arizona) submitted Offers of Settlement in which Hackstedde was fined \$301,896.93, which includes disgorgement of \$286,896.93 in profits, and suspended from association with any FINRA member in any capacity for 30 business days. Sindelar was fined \$418,904.91, which includes disgorgement of \$403,904.91 in profits, and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon reassociation with a FINRA member firm following the suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Hackstedde and Sindelar consented to the described sanctions and to the entry of findings that they acquired unregistered and non-exempt shares from an issuer with a view to distribution and, therefore were statutory underwriters. The findings stated that Hackstedde and Sindelar distributed, or caused the distribution of, unregistered and non-exempt securities to the public using the means and instrumentalities of interstate commerce.

Hackstedde's suspension was in effect from November 2, 2009, through December 14, 2009. Sindelar's suspension was in effect from October 19, 2009, through November 30, 2009. **(FINRA Case #2006004707201)**

Michael Allen Harbison (CRD #4169693, Registered Representative, Arlington, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Harbison consented to the described sanction and to the entry of findings that, as an employee of his member firm's banking affiliate, he withdrew \$4,540 from a customer's account without the customer's permission. The findings stated that Harbison made the withdrawal by cashing a Debit Memo and using a special number that only he knew through his work for the affiliate bank, which allowed him to withdraw the funds from the customer's overdraft line of credit. **(FINRA Case #2008015761301)**

Patrick Francis Harte Jr. (CRD #1865650, Registered Principal, Plano, Texas) was fined \$10,000, ordered to requalify as a principal before functioning in any principal capacity, and suspended from association with any FINRA member in any principal capacity for six months. The sanctions were based on findings that Harte failed to supervise registered representatives who engaged in the sale of unregistered securities. The findings stated that Harte failed to take adequate measures to ensure that the registered representatives and employees he supervised complied with the requirements of Section 5 of the Securities Act.

The suspension is in effect from October 19, 2009, through April 18, 2010. **(FINRA Case #2006003672401)**

James Frederick Henjum (CRD #1027827, Registered Representative, Sioux Falls, South Dakota) 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. The fine must be paid either immediately upon Henjum'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, Henjum consented to the described sanctions and to the entry of findings that he guaranteed a customer against trading losses without the customer's or his member firm's prior written authorization. The findings stated that Henjum reimbursed the customer approximately \$19,200 from his personal funds for trading losses incurred.

The suspension was in effect from October 19, 2009, through November 13, 2009. **(FINRA Case #2007009449501)**

Brian Joseph Hoshowski (CRD #2193295, Registered Representative, Beaverton, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hoshowski consented to the described sanction and to the entry of findings that, contrary to firm procedures, he borrowed \$137,000 from his member firm's customers without prior written notice to, or prior approval from, his member firm. The findings stated that Hoshowski engaged in private securities transactions and failed to provide prior written notification to the firm. The aggregate value of all notes

sold totaled approximately \$1.06 million. The findings also stated that Hoshowski failed to respond to a FINRA request to provide testimony. **(FINRA Case #2008012450001)**

Patrick James Illies (CRD #4781988, Registered Representative, Maple Grove, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for nine months. In light of Illies' financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Illies consented to the described sanction and to the entry of findings that he forged customers' signatures on customer financial forms that he had forgotten to have the customers sign. The findings stated that the customers' signatures were forged on documents relating to transactions that the customers had requested and/or authorized. The findings also stated that when his member firm inquired whether he had forged customer signatures, Illies denied doing so on several occasions.

The suspension is in effect from November 2, 2009, through August 1, 2010. **(FINRA Case #2009017123401)**

Steven Craig Keifner (CRD #2103759, Registered Representative, Ventura, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Keifner engaged in unauthorized options trading in a customer's account and made unsuitable recommendations given the customer's age, investment objectives, financial status and needs. The findings stated that Keifner entered inaccurate information on his member firm's books and records by altering the customer's account documentation and thereby entering false information on the firm's books and records. The findings also stated that Keifner failed to respond to FINRA requests for information and to appear for testimony. **(FINRA Case #2007009444701)**

Stephen Paul Leary (CRD #2874923, Registered Representative, Baltimore, Maryland) 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, Leary consented to the described sanction and to the entry of findings that he submitted false expense reports to his member firm requesting reimbursement of expenses he represented as *bona fide* business expenses that he had incurred and paid relating to his employment at the firm. The findings stated that the expense reports were false in that they included expenses that Leary had not incurred and paid, or had not incurred in furtherance of his firm's business. In connection with certain expenses on the reports that were not legitimate business expenses, Leary submitted receipts and/or other documentation purporting to substantiate the expenses that he either had fabricated or knew did not document *bona fide* business expenses. The findings also stated that, as a result of Leary's false expense reports, his firm adjusted the type and amounts of income it reported for him in one year. **(FINRA Case #2008011999901)**

Sherolyn Rae Leeper (CRD #1214874, Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Leeper consented to the described sanction and to the entry of findings that she misappropriated approximately \$31,663.01 from customers by writing checks

against their brokerage accounts and forging their signatures. The findings stated that Leeper deposited the checks into her personal bank account and converted the proceeds for her own use and benefit. The findings also stated that Leeper failed to respond to FINRA requests for information. **(FINRA Case #2009016624501)**

Raymond Francis Leggett III (CRD #2026927, Bloomfield Township, 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 six months. The fine must be paid either immediately upon Leggett'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, Leggett consented to the described sanctions and to the entry of findings that he engaged in private securities transactions with member firm customers and failed to give written notice to, and receive written acknowledgment from, his member firm. The findings stated that Leggett inaccurately answered questions on his firm's questionnaires regarding his outside business activities.

The suspension is in effect from November 2, 2009, through May 1, 2010. **(FINRA Case #2007009151001)**

Jason Spencer May (CRD #4255401, Registered Representative, North Palm Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 60 days. In light of May's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, May consented to the described sanction and to the entry of findings that he advised a customer to open an account at another FINRA member firm to reduce his options trading transaction costs, accepted discretionary trading authority from the customer for the account, and executed transactions in the customer's account at the other firm using the customer's login and password. The findings stated that May did not advise his member firm in writing that he had discretionary trading authority for the customer's account at another member firm prior to placing an order in the account. The findings also stated that May did not notify the firm where the account was opened that he was associated with another FINRA member firm.

The suspension is in effect from October 19, 2009, through December 17, 2009. **(FINRA Case #2008013907501)**

Lawrence Maxwell McCoy (CRD #1194902, Registered Representative, Kentwood, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, McCoy consented to the described sanction and to the entry of findings that he converted funds belonging to an elderly public customer totaling approximately \$44,000 without her knowledge and consent by contacting the mutual fund company that held her funds and requesting numerous redemptions. The findings stated that McCoy converted additional funds belonging to the customer totaling \$34,000, without her knowledge and consent, by forging her checks and making them payable to a company he controlled that was disclosed to his firm as an outside business activity. **(FINRA Case #2008013278101)**

Robin Lynn McKenny (CRD #5323588, Associated Person, Eureka, California) was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine is due and payable upon McKenny's return to the securities industry. The sanctions were based on findings that McKenny willfully failed to disclose material information on a firm employment application.

The suspension is in effect from October 19, 2009, through April 18, 2011. **(FINRA Case #2007009454501)**

John Michael Mendola (CRD #2891416, Registered Representative, Portland, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for two months and ordered to pay \$5,600, plus interest, in restitution to a customer. The fine and restitution must be paid either immediately upon Mendola'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, Mendola consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts without the customers' prior written authorization or his member firm's written acceptance of the accounts as discretionary. The findings stated that Mendola made unsuitable recommendations to customers in light of their experience, investment objectives, risk tolerance, financial resources and circumstances.

The suspension is in effect from November 16, 2009, through January 15, 2010. **(FINRA Case #2007009877901)**

Vincent John Miller (CRD #1865798, Registered Representative, Livonia, 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, Miller consented to the described sanction and to the entry of findings that he made a recommendation to an elderly customer that the customer invest in shares of a real estate investment trust (REIT). The findings stated that the customer withdrew funds from existing investments and gave Miller over \$1 million to purchase REIT shares. The findings also stated that Miller only invested a portion of the customer's funds in REIT shares and misappropriated \$433,543.22 of the funds by depositing the checks into his personal bank account for his personal use, including gambling, mortgage payments, credit card bills and other personal expenses. The findings also included that Miller failed to respond to FINRA requests for information. **(FINRA Case #2008012562901)**

Susan Jayne Nelson (CRD #1395464, Registered Representative, Houston, 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, Nelson consented to the described sanction and to the entry of findings that she falsified account-related documents by whitening out information, taping over dollar amounts, writing dates and dollar amounts in pencil, tracing signatures, and cutting and pasting signatures. The findings stated that Nelson submitted the falsified documents to her member firm as authentic. The findings also stated that Nelson failed to respond to a FINRA request to appear for an on-the-record interview. **(FINRA Case #2008014015401)**

Judy Jo Patrick (CRD #1476997, Registered Representative, Owasso, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Patrick consented to the described sanction and to the entry of findings that she altered public customers' Withholding Certificate for Pension or Annuity Payment Forms (IRS Form W-4P) by affixing invalid copies of the customers' signatures. The findings stated that Patrick similarly altered her member firm's internal documents regarding public customers, thereby causing the firm's books and records to be inaccurate and not in compliance with Section 17(a) of the Securities Exchange Act of 1934 and SEC Rule 17a-3. The findings also stated that Patrick failed to respond to FINRA requests for information. **(FINRA Case #2008013438901)**

Hubert William Pereira (CRD #5236672, Registered Representative, Marietta, 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 four months. The fine must be paid either immediately upon Pereira'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, Pereira consented to the described sanctions and to the entry of findings that he falsified customer signatures on copies of financial planning service agreements and on an insurance illustration form, and submitted the falsified documents to his member firm. The findings stated that the customers had not authorized Pereira to sign their names on the subject forms, but the customers had previously signed original forms that were submitted to the firm, and the forms Pereira falsified were copies of the originals that he submitted to his principal.

The suspension is in effect from October 19, 2009, through February 18, 2010.
(FINRA Case #2008014390201)

Michael M. Reilly (CRD #4841098, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$12,500 and suspended from association with any FINRA member in any capacity for 45 days. Reilly also agreed to fully and promptly cooperate with FINRA in any and all investigations and/or disciplinary proceedings, of any person or entity, concerning conduct at and/or relating to his member firm during the time he was associated with the firm and, in connection with his cooperation, promptly produce information and documents FINRA requests and appear and testify completely and truthfully at any FINRA interview and/or disciplinary hearing.

Without admitting or denying the findings, Reilly consented to the described sanctions and to the entry of findings that he operated a securities business from an unregistered branch office, causing his member firm to violate the restriction on business expansion contained in its membership agreement with FINRA. The findings stated that, without requisite supervision, Reilly and others regularly used the branch office to cold-call prospective investors, open new customer accounts and/or cause securities transactions to be effected in customer accounts. The findings also stated that Reilly was actively engaged in the management and operation of the branch and exercised control over the operations at the branch office, and one individual, without requisite supervision, used the branch office to improperly solicit potential customers and made false

representations, including unwarranted price predictions, omitted material facts and used misleading telemarketing scripts that a registered principal had never approved. The findings also included that Reilly caused his firm to violate NASD Rule 1017(a)(5) and NASD Interpretative Material 1004. FINRA found that by actively engaging in the management and operations of the branch office, Reilly acted in the capacity of a general securities principal without being so registered at that time.

The suspension is in effect from November 16, 2009, through December 30, 2009.
(FINRA Case #2007007358603)

Martin Dennis Ross (CRD #2221937, Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Ross' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Ross consented to the described sanctions and to the entry of findings that he willfully engaged in pre-arranged or other manipulative trades primarily for a barred individual's benefit. The findings stated that Ross traded shares of the security on one side of the market with one firm and then traded almost the same number of shares on the opposite side of the market with another firm. The findings also stated that there were numerous calls between the individual and Ross within two minutes either immediately before or immediately after Ross affected the inside market. The findings also included that the trading created the false appearance of trading volume and market interest in the company and allowed Ross and the individual to artificially affect the security's market price.

The suspension is in effect from November 2, 2009, through November 1, 2011.
(FINRA Case #2007008732902)

Martin Luther Royster (CRD #2084005, Registered Representative, Detroit, Michigan) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Royster consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation of approximately \$99,000, without providing prompt written notice to his member firm.

The suspension is in effect from November 2, 2009, through February 1, 2010.
(FINRA Case #2007010688401)

David Michael Scaffè (CRD #2643002, Registered Principal, Daniel 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, Scaffè consented to the described sanction and to the entry of findings that he borrowed funds from member firm customers when the firm expressly prohibited its representatives from borrowing funds from customers and included such prohibition in its compliance manual. The findings stated that Scaffè signed annual compliance questionnaires on which he acknowledged that he had received or had

access to the firm's compliance manual and did not request or obtain permission from his firm to borrow funds from customers, nor could he under the firm's procedures. The findings also stated that Scaffè failed to respond to FINRA requests for a written statement. **(FINRA Case #2008013809702)**

Wanda Pittman Sears (CRD #2214419, Registered Representative, Roanoke, Virginia) was suspended from association with any FINRA member in any capacity for six months for unauthorized trading, and was also suspended from association with any FINRA member in any capacity for six months for engaging in outside business activities without providing her member firm with prompt written notice. The suspensions will be served concurrently. In light of Sears' financial status, no monetary sanction was imposed. The NAC imposed the sanctions in a remand decision after Sears had appealed a NAC decision to the SEC. The NAC based its sanctions on findings that Sears effected unauthorized securities transactions in customer accounts and participated in outside business activities without providing written notice to her member firm.

The suspensions are in effect from October 19, 2009, through April 19, 2010. **(FINRA Case #C0720050042)**

Steven John Simone (CRD #2413602, Registered Principal, East Elmhurst, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,500, which included disgorgement of approximately \$8,000 in commissions received, and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Simone consented to the described sanctions and to the entry of findings that he exercised discretionary authority in a deceased customer's account without the customer's written discretionary authority and without his member firm's written acceptance of the account as discretionary. The findings stated that the discretionary transactions generated approximately \$8,000 in commissions and an approximate loss of \$170 in the customer's account; excluding fees and commissions, the account would have realized a gain of approximately \$5,800.

The suspension was in effect from November 16, 2009, through December 14, 2009. **(FINRA Case #2008015766201)**

Jonathan Stuart Solonche (CRD #5191394, Registered Representative, Solon, Ohio) 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 Solonche'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, Solonche consented to the described sanctions and to the entry of findings that he willfully failed to update his Form U4 to disclose material information.

The suspension is in effect from November 2, 2009, through May 1, 2011. **(FINRA Case #2008014858901)**

Blanka Solta (CRD #4568965, Registered Representative, New York, New York)

submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for 12 months. The fine must be paid either immediately upon Solta's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Solta consented to the described sanctions and to the entry of findings that she improperly priced various natural gas options positions in her proprietary trading book which she knew, or should have known, did not accurately reflect the commodities' market values. The findings stated that Solta's mismarking of the natural gas options positions had the effect of improving her profit and loss totals in her proprietary trading book at her member firm.

The suspension is in effect from October 19, 2009, through October 18, 2010. (FINRA Case #2008012493201)

Douglas Leon Swenson (CRD #1196632, Registered Principal, Eagle, Idaho) 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, Swenson consented to the described sanction and to the entry of findings that he had provided FINRA with incomplete information and documents, and failed to provide additional requested information and documents. (FINRA Case #2008015496701)

Lindsay Gregg Thomson (CRD #2984060, Registered Representative, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 25 business days. The fine must be paid either immediately upon Thomson'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, Thomson consented to the described sanctions and to the entry of findings that he sent emails to customers that contained factually inaccurate information and/or failed to comply with the content requirements for options communications, and he did not obtain advance supervisory approval from his member firm. The findings stated that the emails were inadequate and/or misleading, contained exaggerated and/or unwarranted statements, referenced projected performance figures, failed to disclose relevant costs and underlying assumptions, and failed to provide a balanced discussion regarding the basis of the performance for past transactions. The findings also stated that the emails did not include the date of each initial recommendation or transaction, its price, the date and price at the end of the period or when liquidation was suggested or effected, whichever was earlier, the general market conditions during the period, and that the results should not be viewed as an indicator of future performance.

The suspension is in effect from December 7, 2009, through January 12, 2010. (FINRA Case #2007009417101)

William Curtis Wester (CRD #1650555, Registered Representative, Grand Ridge, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Wester'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, Wester consented to the described sanctions and to the entry of findings that he submitted deferred compensation plan enrollment packets excluding a required variable annuity worksheet to his member firm on customers' behalf, and the firm suspended the processing of the enrollment packets until Wester submitted the worksheets for each of the customers. The findings stated that Wester obtained the variable annuity worksheet forms, completed the form for each of the customers and signed the customers' names to the worksheets without their knowledge or authorization. The findings also stated that Wester submitted the falsified forms to his firm as authentic, which caused the firm's books and records to be inaccurate.

The suspension is in effect from November 2, 2009, through May 1, 2010. **(FINRA Case #2008015837401)**

Michael Winter (CRD #470232, Registered Principal, Brookline, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Winter consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts without obtaining the customers' written authorization or his member firm's written acceptance of the accounts as discretionary.

The suspension was in effect from November 16, 2009, through November 30, 2009. **(FINRA Case #2008014013901)**

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 October 31, 2009. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decisions. Initial decisions where the time for appeal has not yet expired will be reported in future editions of FINRA's Disciplinary and Other Actions.

Vincent Patrick McCrudden (CRD #1762690, Registered Principal, Dix Hills, New York) was fined \$12,500 and suspended from association with any FINRA member in any capacity for 35 business days. The sanctions were based on findings that McCrudden made threatening, abusive, harassing, coercive, intimidating and/or vulgar communications to his member firm's employees in connection with a dispute over expenses, commissions and his Form U5 filing. The findings stated that McCrudden, using threatening and coercive conduct and a monetary settlement, induced his former firm to file a misleading and inaccurate Form U5 that stated the reason for his termination as voluntary although he was terminated for cause.

This decision has been appealed to the NAC. The sanctions are not in effect pending consideration of the appeal. (FINRA Case #2007008358101)

Rebecca Amy Reichman (ID #11025579, Associated Person, New York, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Reichman failed to respond to FINRA requests for information and testimony.

This decision has been appealed to the NAC. The sanction is not in effect pending consideration of the appeal. (FINRA Case #2008012096001)

Complaints Filed

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

Joel Barrett (CRD #5441006, Registered Representative, Brooklyn, New York) was named as a respondent in a FINRA complaint alleging that he misappropriated a bank customer's funds by signing the customer's name on a check withdrawal form without the customer's knowledge or authorization, and requesting a \$25,000 check from the customer's account made payable to one of Barrett's friends. The complaint alleges that Barrett, without the customer's knowledge or authorization, activated and linked an automatic teller machine (ATM) card to the customer's savings account and used the card to withdraw \$3,500 from the account for his personal use and benefit. The complaint also alleges that Barrett failed to respond to FINRA requests for information and failed to respond to a FINRA request to appear and testify. (FINRA Case #2008014006701)

Bryan David Budvitis (CRD #4216953, Registered Representative, Aurora, Illinois) was named as a respondent in a FINRA complaint alleging that he misappropriated \$26,500 from a customer's account by completing client verbal instruction forms that requested a check to be issued to his relative and funds to be transferred from the account to his relative's account, representing to his member firm that he had received and confirmed instructions from the account owners, repeated the instructions back to the account owners and personally knew the account holders. The complaint alleges that Budvitis misappropriated an additional \$40,000 but either issued a stop payment or replaced the misappropriated funds himself. The complaint also alleges that Budvitis did not have the customers' permission or authority to take or use the funds for his use and purposes. The complaint further alleges that Budvitis failed to respond to FINRA requests for information and testimony. (FINRA Case #2008016013501)

Shawn Patrick Casuccio (CRD #4193661, Registered Representative, Fairmont, West Virginia) was named as a respondent in a FINRA complaint alleging that he fraudulently induced customers to invest approximately \$723,000 in fictitious entities or non-existent securities. The complaint alleges that, rather than investing the money, Casuccio retained approximately \$667,000 for his personal use. The complaint also alleges that Casuccio made payments totaling \$55,800 to customers, telling them that these payments were either interest earned or other returns on their investments. **(FINRA Case #2008015240601)**

Dale Robert Menendez (CRD #4880000, Registered Representative, East Moriches, New York) was named as a respondent in a FINRA complaint alleging violations in two customer accounts. The complaint alleges that Menendez executed transactions the first customer's account without the customer's knowledge or consent. With regard to one of the transactions, the complaint alleges that Menendez charged a markup that violated an agreement with the customer. The complaint also alleges that Menendez falsely reported to his firm that one of the sales of securities from this account was unsolicited. The complaint further alleges that Menendez cold-called an elderly individual and persuaded him to open a brokerage account at his member firm, and made unsuitably excessive trades in the customer's account that were inconsistent with the customer's objectives and financial situation. In addition, the complaint further alleges that Menendez mischaracterized solicited trades in the customer's account as "unsolicited," causing his firm's books and records to be inaccurate. Furthermore, the complaint alleges that Menendez failed to respond to FINRA requests for on-the-record testimony. **(FINRA Case #2007007400501)**

Firms Expelled for Failure to File Annual Audit Report Pursuant to FINRA Rule 9552

Bio-IB, Inc.
New York, New York
(October 15, 2009)

Carter Securities, LLC
New York, New York
(October 15, 2009)

Doherty & Company, LLC
Los Angeles, California
(October 15, 2009)

Medical Capital Advisors, LLC
Woburn, Massachusetts
(October 15, 2009)

Mortgages Ltd. Securities, L.L.C.
Phoenix, Arizona
(October 15, 2009)

Seward, Groves, Richard & Wells, Inc.
Tuxedo Park, New York
(October 16, 2009)

Upstream Capital Partners, LP
Dallas, Texas
(October 15, 2009)

Firm Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552

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

Cohmad Securities Corporation
New York, New York
(October 8, 2009)

Firm Suspended for Failure to Pay Annual Assessment Fees Pursuant to FINRA Rule 9553

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

Mutual Fund Specialists, Inc.
Winter Park, Florida
(October 29, 2009 – November 5, 2009)

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

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

Brian Lee Daniels
New Brighton, Pennsylvania
(October 26, 2009)

Michael Anthony White
Texarkana, Arkansas
(October 12, 2009 – November 18, 2009)

Individuals Barred Pursuant to FINRA Rule 9552(h)

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

Damon Michael Bryan
Medina, Ohio
(October 5, 2009)

Stephanie Hatten Clark
Brandon, Mississippi
(October 26, 2009)

Christopher Alan Duco
Clinton Township, Michigan
(October 5, 2009)

Robert Laurence Tucker
Pompano Beach, Florida
(October 26, 2009)

Individuals Suspended Pursuant to INRA 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.)

Edwin Ayala
Tampa, Florida
(October 26, 2009)

Steven Michael Beichert
Merrick, New York
(October 5, 2009 – October 21, 2009)

Anthony Paul Mares
Albuquerque, New Mexico
(October 5, 2009)

Christina Maria Morales
Shelby Township, Michigan
(October 13, 2009)

Sherman Jason Niamehr
Rego Park, New York
(October 13, 2009)

Jesse Anthony Rodriguez
Fontana, California
(October 23, 2009)

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.)

Samuel Jay Begun
Potomac, Maryland
(October 22, 2009)

Joseph Christopher DeLaura
Toms Rivers, New Jersey
(June 30, 2009)

Michael Eric Desfor
Chester Springs, Pennsylvania
(October 9, 2009)

Michelle Murphy Feeley
New York, New York
(August 14, 2009 - October 2, 2009)

Gary J. Gross
Far Rockaway, New York
(October 22, 2009)

Timothy Neal Hartman
Minden, Nevada
(October 2, 2009)

Kevin Dee Kunz
Fruit Heights, Utah
(October 2, 2009)

Ralph Antoine Lustin
Marietta, Georgia
(October 29, 2009)

Carlos Alberto Martinez
Haverstraw, New York
(October 2, 2009)

Albert Fredric Prud'homme
Fort Mill, South Carolina
(March 17, 2009 – October 15, 2009)

Frank R. Rivera
Toa Alta, Puerto Rico
(October 9, 2009)

Vincent Ross Jr.
Pittsburgh, Pennsylvania
(October 6, 2009)

Lawrence D. Scoloveno
Flanders, New Jersey
(October 2, 2009 – October 15, 2009)

Anthony Charles Troia
Yorktown Heights, New York
(October 2, 2009)

Charles Roger Webster
Lincroft, New Jersey
(October 2, 2009)

FINRA Fines Citigroup \$600,000 for Failing to Supervise Tax-Related Stock Transactions

Firm Also Fined for Failing to Report Trades to an Exchange and Adequately Monitoring Bloomberg Messages

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Citigroup Global Markets Inc. \$600,000 and censured the firm for failing to supervise complex trading strategies designed in part to minimize potential tax liabilities. The firm also failed to report to an exchange trades executed under these strategies and to adequately monitor Bloomberg messages.

Specifically, Citigroup failed to supervise and control trading activities by lacking procedures designed to detect and prevent improper trades between the firm and certain counterparties, and among entities within the firm.

“Increasingly complex trading strategies must be governed by supervision that is equally sophisticated and detailed,” said Susan Merrill, FINRA Executive Vice President and Chief of Enforcement. “In this case, Citigroup’s inadequate supervision resulted in improper trading related to the execution of strategies involving transactions with a principal purpose of limiting tax liability.”

The first trading strategy involved the purchase of stock by Citigroup’s equity finance desk in New York from a customer—particularly foreign, broker-dealer clients. Then after a period of time, during which the taxable dividends were paid, the stock was sold back to the customer.

When dividends on stock in U.S. companies are paid to foreign investors, these dividends may be subject to withholding taxes, depending on the applicable treaty between the United States and the foreign investor’s home country. However, Citigroup and certain clients understood that a “dividend equivalent” paid as part of a swap agreement would not be subject to such withholding taxes.

To take advantage of this strategy, a foreign client would sell U.S. equities to Citigroup’s equity finance desk in New York. The New York desk then acted as custodian of this dividend-bearing stock for Citigroup’s London affiliate.

The London affiliate then used the stock as the underlying equity hedge in a “total return swap” entered into with the customer. Under the swap, the London affiliate paid the customer a “total return,” which was any income the stock generated, including any appreciation in value, as well as an amount equivalent to the dividend. In exchange for the “total return payments,” the customer paid the London affiliate interest and covered any decline in the share price.

In the final step, the swap was terminated and the New York desk sold the stock on behalf of the London affiliate. The end result was the firm’s foreign clients received the full value of dividends from American securities, the “dividend equivalent,” free of applicable U.S. withholding tax. These transactions occurred from 2002 through 2005.

Citigroup paid about \$24 million to the Internal Revenue Service in 2006, and earlier, in connection with this strategy. The payments were made after the firm determined there was a risk it could not substantiate the independence of some of the trades to the extent they could be distinguished from stock loans or stock repurchase agreements, and that the “dividend equivalents” would be subject to U.S. withholding tax.

For approximately two years after this strategy began, it was conducted without Citigroup having in place written procedures to govern it. After Citigroup implemented written procedures, trading staff conducted improper transactions that deviated from the procedures that Citigroup had put in place.

This activity included selling the stock to an interdealer broker with the understanding that the counterparty would go to the same broker to purchase the stock, and exchanging Bloomberg messages with counterparties as the swap was being unwound to facilitate the counterparties’ repurchase of the underlying securities.

The second strategy was constructed to enhance—for the financial benefit of the firm itself—the after-tax yield on Italian stocks. In addition to the New York and London trading desks, this scheme also involved the firm’s Swiss affiliate.

In the Italian equity trades, the London desk directed the New York equity finance desk to borrow stock in Italian companies expected to declare dividends. The New York desk, in turn, loaned the stock to the Swiss affiliate, which then sold the shares back to the New York desk.

In the next step, the New York desk sold these shares to an inter-dealer broker, who then sold them to the London desk. Lastly, the London and Swiss affiliates entered a swap agreement to cover the risk each took on as a result of taking a long (London) and short (Swiss) position. After the dividend was paid, the trades were unwound in reverse order.

The London affiliate held the Italian stocks and collected the dividend, in anticipation of receiving favorable tax treatment from the Italian authorities under a treaty, and in anticipation of generating additional tax benefits for the firm as a whole. This strategy was used from about 2000 to 2004.

Citigroup failed to establish written supervisory procedures specific to these trades. The firm also failed to prevent improper coordination between its related entities. Additionally, some of the stock trades by the New York desk in carrying out both trading strategies were not reported to an exchange, as required by securities regulations.

FINRA also found that the New York desk and counterparties used Bloomberg-terminal messages to communicate about the U.S. equity trades with foreign clients for approximately one year before the firm incorporated the review of the desk’s Bloomberg messages into its email review system.

In settling this matter, Citigroup neither admitted nor denied the charges, but consented to the entry of FINRA’s findings. In determining the appropriate sanction, FINRA noted that Citigroup discovered and self-reported the violations giving rise to

this matter; that the firm hired a law firm to conduct a review of these trades and to assist in remedial efforts; and that the firm and its outside counsel provided substantial assistance to FINRA staff during the investigation.

Scottrade Fined \$600,000 for Inadequate Anti-Money Laundering Program

Firm Failed to Adequately Monitor for Suspicious Transactions

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Scottrade \$600,000 for failing to establish and implement an adequate anti-money laundering (AML) program to detect and trigger reporting of suspicious transactions, as required by the Bank Secrecy Act and FINRA rules.

FINRA requires brokerage firms to establish and implement anti-money laundering policies, procedures and internal controls reasonably designed to detect and cause the reporting of any suspicious transactions that could be related to possible violations of laws or regulations—regardless of whether those transactions are associated with suspicious movement of funds into or out of accounts.

“Each firm’s AML program must be tailored to its business model, including the technological environment in which the firm operates,” said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. “In this case, despite the large volume of on-line trading at Scottrade, the firm failed to establish any systematic or automated surveillance until 2005. Then, the automated system the firm implemented remained inadequate because it focused only on suspicious trading that was accompanied by suspicious money movement.”

Specifically, FINRA found that between April 2003 and April 2008, Scottrade failed to establish and implement an adequate AML program tailored to its business model, which primarily consists of providing an on-line platform for customers trading in securities. In 2003, Scottrade handled about 49,000 customer trades per day, and its volume grew to about 150,000 daily trades in 2007. Among the risks inherent to Scottrade’s brokerage model and the firm’s substantial trading volume are an increased risk of identity theft, account intrusions and the use of customer accounts to launder money using securities or other financial instruments, or to violate securities laws.

FINRA has advised firms that in designing their AML program, they should consider factors such as their size, location, business activities, the types of accounts they maintain and the types of transactions in which their customers engage. FINRA also has instructed on-line firms such as Scottrade to consider conducting computerized surveillance of account activity to detect suspicious transactions.

From April 2003 through January 2005, Scottrade did not have any systematic or automated program designed to detect potentially suspicious money movement or securities transactions. Instead, the firm used a manual system to monitor accounts

for suspicious activities. This system relied almost exclusively on internal personnel, including branch, cashiering and margin employees, to identify and refer potentially suspicious activity to the firm's risk management department for further review.

Until June 2004, Scottrade's AML compliance officer/director of risk management was the sole employee specifically charged with investigating referrals to determine whether activity was "suspicious" and therefore reportable. In June 2004, the firm hired a risk management analyst to assist with this review. Neither the compliance officer, the analyst nor anyone else at Scottrade specifically monitored transactions for potentially suspicious trading activity. FINRA found that the sheer volume of on-line trading, along with the firm's reliance on inadequate internal resources, rendered the lack of an automated system to detect suspicious activity unreasonable.

In February 2005, Scottrade implemented a proprietary, automated system to monitor for suspicious transactions that was inadequate because it was primarily designed to monitor for and detect suspicious money movement.

Under Scottrade's automated filter-based system, when suspicious activity triggered one of the filters, it generated an alert to the AML analysts responsible for investigating the alerts. The analysts only reviewed for potentially suspicious trading activity if there was money movement into or out of an account that independently triggered one of the filters. On average, 1,300 alerts were generated monthly, but not all alerts were reviewed. In September 2006, the firm implemented a proprietary volume report for purposes of detecting "pump-and-dump" account intrusions and unauthorized trading activity resulting from such account intrusions. Scottrade did not utilize this volume report to detect suspicious trading activity by bona fide account holders.

FINRA also found that Scottrade's AML procedures failed to provide adequate written guidance to its employees as to how to detect or review transactions for potentially suspicious activity and failed to provide adequate written guidance to its AML analysts for detecting and investigating potential suspicious trading.

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

FINRA Bars California Broker for Insider Trading

The Financial Industry Regulatory Authority (FINRA) announced that a former registered representative, Abhishek Uppal, has been barred from the securities industry for engaging in insider trading earlier this year.

Uppal, of San Francisco, worked in the investment banking department of Piper Jaffray & Co. from 2007 to July 2009. He was barred for buying shares of SoftBrands, Inc. while it was in discussions with potential acquirers. Piper Jaffray was acting as a confidential advisor to SoftBrands in its dealings with possible buyers.

“FINRA devotes significant resources to surveilling the markets for possible insider trading activity because of the dangers it poses to the public’s confidence in our securities markets,” said Thomas Gira, Executive Vice President of FINRA’s Market Regulation Department. “This action demonstrates our ability to detect insider trading and act quickly to sanction wrongdoers by removing them from the securities industry.”

On June 4 and 5, 2009, Uppal purchased 27,161 shares of SoftBrands, paying \$0.42 and \$0.45 per share. On June 12, the company announced that it had agreed to be acquired by Golden Gate Capital and Infor Global Solutions for \$0.92 per share, at a total transaction value of approximately \$80 million.

That day, SoftBrands’s stock price nearly doubled, rising from \$0.47 to \$0.89 per share on volume of 3.6 million shares. The next business day, June 15, 2009, Uppal sold all 27,161 shares of his SoftBrands stock, at \$0.89 per share, realizing a profit of \$11,955.

FINRA found that Uppal purchased shares of SoftBrands while in possession of material, non-public information about the company’s pending acquisition. FINRA also found that Uppal used an undisclosed securities account that he maintained at another broker-dealer to conceal his trading in SoftBrands from his employer.

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