# The Girl with the SEC/FINRA Tattoo: Disciplinary Actions Taken Against Chief Compliance Officers (November 2010 – June 2011)

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## Introduction

*Mikael Blomkvist: "The job I was offered, and which inexplicably I agreed to do, is without a doubt the most bizarre assignment I've ever undertaken."*[1]

In the international runaway bestseller *The Girl With the Dragon Tattoo*, Mikael Blomkvist, a journalist, and Lisbeth Salander, an investigator with a dragon tattoo, a wasp tattoo, as well as others (but not, as far as we know, an SEC or FINRA tattoo) were given the bizarre job of trying to find out who murdered someone 40 years earlier. For some people, the position of a chief compliance officer (CCO) for a broker-dealer or investment adviser may seem bizarre because CCOs often have the job of giving advice and telling people what to do, how to do it, or what not to do, but they don't have the power to enforce their decisions or carry out their message. Because of the key function played by CCOs, their conduct is often carefully scrutinized by the Securities and Exchange Commission (SEC) and Financial Industry Regulatory Authority (FINRA), resulting in "marks" or "tattoos" such as fines or suspensions.

This article, like its predecessors,[2] analyzes recent SEC and FINRA actions against CCOs to highlight examples of conduct that regulators have identified as sanction-worthy, in the hope that others may avoid a similar disciplinary branding in the future.[3] From November 2010 through June 2011, the SEC and FINRA brought disciplinary actions against CCOs for a range of conduct, including playing a role in their respective firms' inadequate due diligence of private placement products, failing to supervise registered representatives, aiding and abetting their firms' underlying violations, permitting an unregistered individual to trade securities, failing to preserve emails and failing to provide anti-money laundering supervision.

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## Inadequate Due Diligence

*Torsten Edklinth, Director, Constitutional Protection Unit of the Secret Police: "Starting now, you're released from all other duties. Your task, your only task, is to investigate the truth. . . . You have either to verify or dismiss the claims one by one."* [4]

To comply with their obligation to have reasonable grounds for recommending a security to their customers, broker-dealers have to investigate the "truth" of the product by conducting adequate due diligence of the potential risks and rewards.[5] In addition, in general, FINRA requires its member firms to establish, maintain and enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations and rules.[6] As a spate of recent cases concerning the sale of private placement offerings has made clear, adequate product due diligence is a necessary component of a reasonable supervisory system. In several of those recent cases, FINRA cited CCOs for violations in connection with the firm's private placement due diligence failures.

### Complaints

In spring 2011, FINRA filed two complaints naming CCOs for their roles in their firms' due diligence violations regarding private placements. First, in a March 2011 complaint, FINRA alleged that a firm, acting through its CCO (who also served as chief legal counsel), failed to supervise the due diligence review of a private placement offering and failed to supervise sales of that offering on an ongoing basis.[7] The complaint alleged that in advance of approving the offering, the firm, acting through the CCO, failed to:

- Obtain or review financial statements for the product sponsor;
- Research the background of the product sponsor's officers; and,
- Use the services of third-party due diligence providers that drafted due diligence reports concerning the offering.

After its approval of the offering, the firm, acting through its CCO, allegedly failed to supervise the sale of the offering by ignoring indications that the product sponsor was experiencing liquidity issues.

In an April 2011 complaint, FINRA alleged that another CCO, who was also general counsel, failed to conduct reasonable due diligence in connection with a private placement offering.[8] The CCO allegedly approved the selling agreement for the offering at issue before he had completed due diligence and received all of the information he requested from the product sponsor. This conduct was contrary to the firm's procedures. According to the complaint, by failing to follow the firm's procedures regarding due diligence, the CCO, along with the firm, failed to establish, maintain, and enforce a reasonable supervisory system. The complaint further alleged that the CCO failed to follow the firm's due diligence procedures because the firm was hiring a high-producing registered representative who wanted to sell these private placement offerings. These matters will be resolved through a decision by a hearing panel or through Offers of Settlement.

### Settlements

In addition to filing complaints, FINRA settled numerous due diligence cases with CCOs through Letters of Acceptance, Waiver, and Consent (AWCs). A few of the AWCs specified that the firms' due diligence written supervisory procedures (WSPs) were inadequate. In a settled action from January 2011, FINRA found that a CCO had failed to ensure that his firm established, maintained and enforced a reasonable supervisory system because his firm's WSPs were deficient.[9] In particular, the WSPs did not specify:

- Who was responsible for performing due diligence on private placement offerings;
- Procedures for satisfying due diligence requirements;
- How due diligence was to be documented;
- Who was responsible for reviewing due diligence and approving an offering; and
- Who would perform ongoing supervision of private offerings and approval.

The CCO was suspended in any principal capacity for one month and fined $10,000.

In another settlement, a CCO was sanctioned where his firm's WSPs set forth due diligence procedures applicable to the firm's underwritings, but those procedures were not applicable to a "third-party private placement" offering, which was defined as "a private placement that another

broker-dealer marketed as a syndicator and for which [the firm] was simply a selling member."[10] In addition, the AWC found that the CCO failed to conduct adequate due diligence because he did not investigate the product sponsor and he obtained no information outside of the private placement memorandum. For these violations, the CCO was censured and fined, jointly and severally with the firm, $25,000.

FINRA settled another procedures case after finding that the CCO "caused the firm to fail to establish, maintain and enforce a supervisory system and written procedures" relating to private placement offerings.[11] In that case, where the CCO was responsible for drafting, maintaining and updating the firm's written procedure related to private offerings, FINRA found that the firm's written procedures failed to provide any specific procedures required before approval. In addition, the AWC stated that the CCO failed to conduct adequate due diligence regarding at least 15 private placement offerings. For a number of the offerings at issue, the CCO, who was the principal designated to approve private offerings, failed to obtain any product information outside of the private placement memorandum (PPM) and subscription documents. For several offerings, he neglected to obtain even the PPM before giving approval. For one offering at issue, the firm and the CCO did obtain a third-party due diligence report—but only after the firm had approved and sold the offering. The CCO, who had a lengthy disciplinary history, was suspended for a period of six months and fined $15,000.

In other due diligence cases, the CCOs' violations related to their failure to *follow* (as opposed to *have*) applicable policies and procedures. For example, as set forth in one AWC, a CCO had signed a selling agreement and approved an offering for sale wholly on the basis of due diligence the firm had conducted on prior offerings by the same product sponsor.[12] Because it conducted no review on the offering at issue, FINRA found that the firm, acting through its CCO, failed to enforce its supervisory procedures, which stated that the CCO would approve the offering only after the due diligence officer reviewed the offering. Further, FINRA found that, after the CCO approved the offering for sale, he ignored red flags, including:

- Missed interest payments by the product sponsor;
- New third-party due diligence reports noting liquidity concerns; and
- Notification that its clearing firm had determined to value the private offerings at zero due to liquidity concerns.

The CCO was suspended for six months and fined $5,000.

In another AWC, a CCO failed to follow applicable WSPs and was found liable for failing to establish, maintain and enforce a reasonable supervisory system.[13] The CCO approved the products at issue without performing any due diligence beyond reviewing the PPM, despite additional requirements outlined in the WSPs. Further, the CCO did not conduct any continuing due diligence or follow-up after approval.

*[T]he position of a chief compliance officer (CCO) for a broker-dealer or investment adviser may seem bizarre because CCOs often have the job of giving advice and telling people what to do, how to do it, or what not to do, but they don't have the power to enforce their decisions or carry out their message.*

The CCO had obtained third-party due diligence reports regarding prior offerings, but failed to receive any reports for the offerings at issue, instead performing only cursory reviews of the PPMs to ascertain that they were similar to prior offerings. Because of this failure to maintain a reasonable supervisory system on behalf of the firm, the CCO was suspended for six months and fined $10,000.

## Supervision

*"[Lisbeth Salander:] 'In the future I'm going to have control over your life. When you least expect it, when you're in bed asleep probably, I'm going to appear in the bedroom with this in my hand.' She held up the taser."*[14]

While control or supervision in the broker-dealer and investment adviser arena may be difficult and involve a lot of rules and regulations, so far tasers are not mandated (or even optional, as far as we know). Several of the above due diligence cases involved supervision (but not tasers) where the CCOs were cited for their role in the firm's inadequate supervisory system. In addition to that supervisory issue, CCOs may also be subject to liability for failing to supervise particular employees. Specifically, when compliance officers, or others, have sufficient "responsibility, ability, or authority to affect the conduct of the employee whose behavior is at issue," they may be deemed supervisors and become subject to liability for supervisory failures.[15] This issue was recently highlighted in the *Theodore W. Urban* decision.[16] While that case involved an in-house general counsel, it demonstrated that non-business line supervisors, such as compliance officers, can be held liable for supervising employees who are not within their supervisory line.

*...CCOs may also be subject to liability for failing to supervise particular employees.*

Another example of non-line supervisory liability can be seen in an April 2011 SEC administrative-law judge (ALJ) decision involving a broker-dealer CCO.[17] The ALJ found that the CCO's firm allowed customers to transfer large amounts of penny stocks into their accounts and then the firm sold these stocks on behalf of the customers without properly registering the securities. The ALJ sanctioned three of the firm's registered representatives for selling unregistered securities. Then, the ALJ determined that the CCO had failed to supervise the registered representatives in connection with those sales.

The CCO, who was the firm's only compliance officer and also acted as chief financial officer, was responsible for the firm's supervisory control systems and for reviewing wire transfers, instant messages and electronic communications. With respect to penny stocks, the ALJ noted that the CCO was aware of the potential compliance issues surrounding low-priced stocks and that due diligence required an inquiry into the source of the penny stock deposits. The CCO also knew that no one at his firm had investigated the accuracy or completeness of information that clients supplied on low-price securities questionnaires and generally that "due diligence on account holders was lacking." Moreover, the firm had no operational procedures addressing how transactions involving low-priced securities should be conducted and no supervisory procedures addressing how the branch office at issue should be monitored or audited.

In determining that the CCO "supervised" the registered representatives, the ALJ specifically rejected the CCO's arguments that he was not in the direct supervisory chain, noting the following:

- The firm's supervisory procedures manual names the CCO as a supervisor in certain sections;
- The firm was small and the CCO held several titles;
- The CCO was in charge of the firm's supervisory system; and,
- The CCO believed he had the authority to terminate at least one of the registered representatives.

The CCO was barred from associating with a broker-dealer and assessed a civil penalty of $130,000 for his supervisory failures, and for aiding and abetting and causing the firm's anti-money laundering (AML) violations in connection with the penny stock scheme.

CCOs may also be charged with other types of supervisory violations. Through a January 2011 AWC, a CCO, who was responsible for reviewing new account applications, was sanctioned because he violated Rule 3010 by "failing to act on indicia of possible unsuitable sales of hedge fund interests."[18] In that case, the CCO reviewed and approved account applications for customers whose sole purpose in opening the accounts was to invest in hedge fund interests. Those customers' applications indicated "safety of principal" as customers' investment objectives, which was inconsistent with the investment strategies of the hedge funds in which they were investing. Despite this, the CCO made no inquiry into whether the investments were suitable. For this conduct, the CCO was fined $5,000 and suspended for 60 days.

## Aiding and Abetting

*Advokat Nils Erik Bjurman, Lisbeth's guardian/villain: "Lisbeth, don't act any more stupid than you are. I want us to be good friends and to help each other out."*[19]

In the securities world, if Lisbeth (or a CCO) were to "help" another person who committed a violation, it is possible she would be found liable for causing or aiding and abetting the underlying violation. Liability for aiding and abetting requires an underlying violation, substantial assistance in connection with the primary violation and scienter, which is satisfied by recklessness.[20] CCOs may also be found liable for causing violations, which similarly involves a primary violation and an act or omission by the respondent that causes the violation. Causing liability, however, in some cases requires only a negligent state of mind.[21]

In an April 2011 settlement, the SEC determined that a CCO had aided and abetted and caused his firm's violations of Regulation S-P.[22] Regulation S-P's "Safeguard Rule" requires broker-dealers to maintain written policies and procedures designed to protect customer information from unauthorized use. While the firm in this case had policies and procedures designed to safeguard customer information, the SEC found that the procedures were inadequate. Specifically, from August 2006 through February 2008, the firm breached customer confidentiality when three laptops were stolen from branch offices in three separate incidents. In a fourth incident, a terminated firm registered representative misappropriated another firm employee's email credentials and gained unauthorized access to internal emails. Each of these instances posed a threat of unauthorized use of confidential customer information, but the firm failed to assess the risks these occurrences posed to customers and further failed to take any remedial measures in response to the misappropriations, despite recommendations by Information Technology employees.

The CCO was responsible during the relevant time period for implementing and maintaining policies and procedures designed to ensure compliance with Regulation S-P. He was also responsible for reviewing the adequacy of the firm's written supervisory procedures. In finding that the CCO willfully aided and abetted and caused the firm's Regulation S-P violations, the SEC found that the CCO was notified of each customer information breach and, despite supervising two reviews of the firm's supervisory procedures during the relevant time period, he failed to take any action to supplement or modify the firm's procedures. For his conduct, the CCO was censured and assessed a civil penalty of $15,000.

Two cases involving CCOs of registered investment advisers were settled in May 2011. In one, the CCO was found to have caused his firm's violations relating to principal trades with advisory clients and to have aided and abetted his firm's failure to have written policies and procedures reasonably designed to ensure compliance with the Advisers Act.[23] Over the course of approximately two and a half years, the CCO's firm effected thousands of securities transactions without disclosing to its advisory clients that the firm was acting as principal for its own account, thereby violating the disclosure and consent requirements of §206(3) of the Advisers Act. During this time, the CCO was responsible for monitoring the firm's overall compliance with the Advisers Act, including the disclosure and consent requirements. The SEC emphasized that the firm, at the CCO's suggestion, had hired an outside consultant to review the firm's advisory business and the outside consultant had brought the rules regarding principal transactions to the CCO's attention. Nevertheless, the CCO failed to determine whether the firm had adequate written policies and procedures regarding principal transactions and failed to adopt and implement such procedures on behalf of the firm. Through this conduct, the CCO was found to have caused his firm's violations related to principal trades.

This firm was dually registered, and the SEC found that, while the firm had policies and procedures in effect with respect to its broker-dealer business, it had only an "off-the-shelf" investment adviser compliance manual. The CCO was responsible for revising and implementing the investment adviser manual to address the firm's business practices. By the time of the outside consultant's review, several months after the firm's SEC registration, the CCO had not completed the revisions. The outside consultant's report specifically recommended that the firm adopt a compliance manual tailored to its advisory business and further pointed out the need for a written code of ethics. Neither the CCO nor the

firm's president took any action. Consequently, both were found to have aided and abetted the firm's violations related to its inadequate policies and procedures. The CCO was censured and assessed a civil penalty of $50,000.

In the other investment adviser CCO settlement, the SEC found that the CCO had aided and abetted and caused a number of his firm's underlying violations related to responding to requests for proposal (RFP) and maintaining books and records.[24] First, in response to a number of RFPs from prospective clients, the firm either misrepresented or omitted information related to prior SEC examinations and, in one instance, provided a copy of an SEC deficiency letter for the firm's broker-dealer, rather than for the investment adviser that was the subject of the RFP. The SEC found that the CCO, who reviewed the firm's RFP responses, knew or should have known about the firm's SEC exam deficiencies and, at a minimum, should have verified that the correct deficiency letter was provided. Because of this conduct, the CCO willfully aided and abetted the firm's violation of §206(2) of the Advisers Act, which prohibits actions of fraud or deceit on a client. Further, the CCO was found to have aided and abetted the firm's failure to adopt and implement reasonable policies in procedures, based on his failure to adequately review RFP responses in accordance with the procedures.

In addition, the CCO was responsible for receiving and maintaining acknowledgments from employees of the firm's code of ethics. For a two-year period, the firm kept no records of these acknowledgments pages. Consequently, the CCO was found to have willfully aided and abetted violations of Rule 204-2(a)(12) promulgated under the Advisers Act, which requires the firm to maintain a record of such acknowledgment pages. For these violations, the CCO was censured and assessed a civil penalty of $100,000.

## Permitting an Unregistered Individual to Trade

*"The first person she saw in the courtroom was [Holger] Palmgren[, Lisbeth's first guardian and positive father figure], and it took a while for her to realize that he was not there in the role of a trustee but rather as her legal representative. To her surprise, he was firmly in her corner, and he made a powerful appeal against institutionalization. She did not betray with so much as a raised eyebrow that she was surprised. . . ."*[25]

While the SEC and FINRA do not regulate legal representatives, to be a registered representative engaged in the securities business of a member firm, persons need to be properly registered in an appropriate category. In an AWC from December 2010, FINRA found that a CCO violated NASD (National Association of Securities Dealers) Rule 1031, which imposes the registration requirement, when he allowed an individual he knew to be unregistered to trade in the firm's proprietary account.[26] The AWC noted that the firm's WSPs specified that the CCO was responsible for registration and licensure of the firm's employees. For this violation, the CCO was suspended in any supervisory capacity for two months.

## Failing to Preserve Emails

*Mikael Blomkvist: "And [billionaire industrialist and crook Hans-Erik] Wennerström's idiot writes all this to the lawyer in an email—of course encrypted, but even so. . . It doesn't say much for the IQ of this bunch."*[27]

In the securities world (as well as in Swedish mystery books), people often make imprecise and ill-considered comments in emails. Carefully considered or not, however, under the securities laws, emails must be retained. The failure to retain such communications has led to numerous disciplinary actions against both firms and individuals. For example, in a default decision in March 2011, FINRA sanctioned a CCO (who was also the firm's president) for violating NASD Conduct Rule 2110 by failing to ensure that his firm preserved its emails in accordance with Exchange Act Rule 17a-4, which requires broker-dealers to preserve all business communications for a period of not less than three years.[28] The CCO and another registered person sent and received emails (including emails to FINRA) using personal email accounts not linked to the firm's email preservation system. The hearing officer noted that the CCO:

- Was responsible for the firm's compliance with Rule 17a-4;
- Personally sent some of the non-compliant emails; and

- Had previously been cited for email deficiencies of exactly the same kind at issue in the present case.

For these violations, among others, the CCO was suspended for 30 business days and fined, jointly and severally with the firm, $35,000.

## AML Compliance

*"She did not answer her telephone and she did not turn on her computer. She spent two days washing laundry, scrubbing, and cleaning up her apartment."*[29]

While laundering clothing is certainly important for good hygiene, in the securities industry, a different type of laundering (of money, that is) is important because of the many rules that apply to it. NASD Conduct Rule 3011 requires broker-dealers to implement an effective anti-money laundering (AML) program designed to achieve compliance with the Bank Secrecy Act, 31 U.S.C. §5311. In addition, Rule 17a-8 of the Exchange Act also requires broker-dealers to comply with reporting obligations under the Bank Secrecy Act. Recently, FINRA has brought several actions against CCOs for a variety of failures relating to their firms' AML systems and procedures.

Two recent cases concern the CCOs' failure to follow up on red flags and to file "Suspicious Activity Reports" (SARs). In one case, a CCO (who was also the firm's president and AML officer) was taken to task for his firm's AML violations involving several customers who engaged exclusively or almost exclusively in large and repeated penny stock transactions. While the CCO questioned certain customers about suspicious activity and never received satisfactory explanations, none of the conduct was reported to regulators. FINRA concluded that the firm, acting through its CCO, failed to conduct a reasonable investigation regarding suspicious transactions, failed to file a SAR and failed to document its rationale for not filing a SAR. For his role in the AML violations, the CCO was fined $10,000 and suspended in any principal capacity for one month.

In the other case, the CCO/AML officer also failed to file SARs in relation to suspicious trading activity. In that case, a broker used a variety of tactics, including wash trades, to manipulate stock prices. In its settlement order, the SEC found that the firm and the CCO should have identified the wash transactions as suspicious and that the CCO should have filed SARs on behalf of the firm. For failing to do so, the CCO was found to have aided and abetted and caused the firm's anti-money laundering violations. In addition, because she was directly responsible for supervising the broker and she neglected to follow up on the suspicious transactions, the CCO failed to supervise the broker adequately. For these violations, she was suspended for 12 months and assessed a civil penalty of $20,000.[30]

*Unfortunately for CCOs and other registered persons, once they have a "mark" on their Forms U4 or U5, those marks generally cannot be removed by laser or otherwise.*

In another AML case, a CCO (who was also the firm's AML compliance officer) failed to conduct any review of AML-related trading activity, failed to obtain any AML training and failed to file timely SARs.[31] For these violations, as well as others, the CCO was suspended for six months and fined $20,000.

## Conclusion

*"During her time at the clinic in Genoa she had also had one of her nine tattoos removed—a one-inch-long wasp—from the right side of her neck. She liked her tattoos, especially the dragon on her left shoulder blade. But the wasp was conspicuous and it made her too easy to remember and identify. Salander did not want to be remembered or identified. The tattoo had been removed by laser treatment . . . ."*[32]

Unfortunately for CCOs and other registered persons, once they have a "mark" on their Forms U4 or U5, those marks generally cannot be removed by laser or otherwise. The goal of any CCO is to avoid getting that mark or tattoo while, at the same time, providing advice and guidance so that a firm can grow and prosper. Although some people may view compliance as a mystery

(but perhaps not exactly like Stieg Larsson's "The Millennium Trilogy Series"[33]), it doesn't have to be a complete mystery. One way to take some of the mystery out of it is to review and analyze cases like those discussed above to gain insight into the thinking of regulators on certain issues. Another way is to read journals like this one (as well as other magazines and books that may not appear—at first glance—to apply to compliance issues, but really do).

## ENDNOTES

1 Stieg Larsson, *The Girl With the Dragon Tattoo*, 363 (Reg Keeland trans., Vintage Books Mass Market Ed. 2009) (2005).

2 The first and second articles in this series were previously published in this journal. See Brian L. Rubin & Katherine L. Kelly, *While You Were Complying: SEC and FINRA Disciplinary Actions Taken Against Chief Compliance Officers*, Practical Compliance and Risk Management, Sept-Oct 2010 at 39, and Brian L. Rubin & Katherine L. Kelly, *While You Were Complying: SEC and FINRA Disciplinary Actions Taken Against Chief Compliance Officers (Again)*, Jan-Feb 2011 at 35.

3 Certain cases have been excluded where the CCO served multiple functions at the firm and it was unclear whether the CCO was charged in his or her capacity as CCO.

4 Stieg Larsson, *The Girl Who Kicked the Hornet's Nest*, 224 (Reg Keeland trans., Alfred A Knopf 1st U.S. ed. 2010) (2007).

5 NASD Conduct Rule 2310; FINRA Regulatory Notice 10-22, Obligations of Broker-Dealers to Conduct Reasonable Investigations in Regulation D Offerings (April 2010).

6 NASD Conduct Rule 3010(a).

7 *Enforcement v. ValMark Securities, Inc., et al.*, Complaint, OHO, No. 2009018817601 (March 4, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=10388.

8 *Enforcement v. Synergy Investment Group, LLC, et al.*, FINRA Disciplinary Proceeding No. 2009018817101 (April 5, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=14827.

9 *Vincent Michael Brun,* FINRA AWC No. 2009018771701 (Jan. 12, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=12066.

10 *Brookstone Securities, Inc., et al.,* FINRA AWC No. 2009019837303 (May 20, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=17029.

11 *Robin Fran Bush*, FINRA AWC No. 2009016159402 (March 1, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=10464.

12 *Cambridge Legacy Securities, Inc., et al.*, FINRA AWC No. 2009020319001 (Nov. 29, 2010), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=11739.

13 *Jay Lynn Thacker,* FINRA AWC No. 2009019070101 (Jan. 20, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=14078.

14 *The Girl With the Dragon Tattoo* at 286.

15 *George J. Kolar*, Exchange Act Rel. No. 46127, 55 S.E.C. 1009, 2002 SEC LEXIS 1647, *13 (June 26, 2002) (quoting *John H. Gutfreund*, Exchange Act Rel. No. 31554, 51 S.E.C. 93, 113, 1992 SEC LEXIS 2939, *47 (Dec. 3, 1992)).

16 Initial Decision Rel. No. 402, 2010 SEC LEXIS 2941 (Sept. 8, 2010). The SEC's Enforcement Division has filed a petition to the full Commission for a review of the dismissal in *Urban*, while Mr. Urban has filed a cross-petition requesting a review of the finding that he was the broker's supervisor. For a discussion regarding this case, *see* Brian L. Rubin & Katherine Kelly, *While You Were Complying: SEC and FINRA Disciplinary Actions Taken Against Chief Compliance Officers (Again)*, Jan-Feb 2011 at 35.

17 *Ronald S. Bloomfield, et al.,* Initial Decision Rel. No. 416-A, 2011 SEC LEXIS 1457 (April 26, 2011).

18 *David E. Niederkrome*, *et al.*, FINRA AWC No. 2008016403302 (Jan. 24, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=11404.

19 *The Girl With the Dragon Tattoo* at 272.

20 Sections 929M, 929N, and 929O of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended § 15 of the Securities Act of 1933 (Securities Act), § 20(e) of the Securities and Exchange Act of 1934 (Exchange Act), and § 209(f) of the Investment Advisers Act of 1940 (Advisers Act) to provide for aiding and abetting liability for reckless, as well as knowing, conduct. Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. H.R. 4173, 111th Cong. (2009-2010).

21 *Mark T. Schwetschenau*, Admin. Proc. File No. 3-13995, 2010 SEC LEXIS 2534 *9 (Aug. 5, 2010) ("Negligence is sufficient to establish liability for causing a primary violation that does not require scienter").

22 *Marc A. Ellis*, Exch. Act. Rel. No. 64220, 2011 SEC LEXIS 1199 (April 7, 2011).

23 *Wunderlich Securities, Inc., et al.*, Exch. Act. Rel. No. 3-14403, 2011 SEC LEXIS 1859 (May 27, 2011).

24 *Aletheia Research and Mgmt., Inc., et al.*, Exch. Act. Rel. No. 64442, 2011 SEC LEXIS 1637 (May 9, 2011).

25 *The Girl With the Dragon Tattoo* at 176.

26 *George Edward Dragel*, AWC No. 2008015617901 (Dec. 12, 2010), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=13369.

27 *The Girl With the Dragon Tattoo* at 596.

28 *Enforcement v. Pyramid Financial Corp., et al.,* FINRA Disciplinary Proceeding No. 20080116005-01 (March 3, 2011), *available at* http://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=13806.

29 *The Girl With the Dragon Tattoo* at 461.

30 *Elizabeth Pagliarini,* Exch. Act. Rel. No. 63964, 2011 SEC LEXIS 682 (Feb. 24, 2011).

31 *Zulina Visram,* FINRA AWC No. 2010021162201 (May 27, 2011), available athttp://disciplinaryactions.finra.org/viewdocument.aspx?DocNB=17092.

32 Stieg Larsson, *The Girl Who Played With Fire*, 17 (Reg Keeland trans., Alfred A Knopf 1st U.S. ed. 2009) (2006).

33 *See* "*The Girl With The Dragon Tattoo*," "*The Girl Who Played With Fire*" and "*The Girl Who Kicked the Hornets' Nest*."

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