FICC MARKETS STANDARDS BOARD

MISCONDUCT PATTERNS IN FINANCIAL MARKETS

Selected Case Studies

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1. WASH TRADES.

CFTC 2015. TeraExchange.

Tera offered a non-deliverable forward contract based on the relative value of the U.S. Dollar and Bitcoin for trading on its Swap Execution Facility ("SEF"). The only two market participants authorised at the time to trade on Tera's SEF entered into two transactions in the Bitcoin non-deliverable forward contract. The transactions were for the same notional amount, price and tenor, and had the effect of offsetting each other exactly. At the time, these were the only transactions in the contract undertaken on Tera's SEF. Tera arranged for the two market participants to enter into the transactions telling one trader that the trade would be "*to test the pipes by doing a round-trip trade with the same price in, same price out, (i.e. no P/L [profit/loss] consequences) no custodian required*." Tera subsequently represented these to the public as bona fide trading activity.

US 1944. United States v. Minuse. Equities.

Norman W. Minuse and Joseph E. Pelletier, under the name of N. W. Minuse & Company, traded Tastyeast Class A stock on the New York Curb Exchange. In 1935, they obtained an option on 73,000 shares of the stock and then used "wash sales", "matched sales" and "dummy accounts" to manipulate and inflate the price of the stock above the option price. Wash and matched trades were undertaken between "dummy accounts" which comprised persons operating at the direction of Minuse and Pelletier. The dummy accounts of friends and associates were induced to participate in the scheme by means of guarantees against loss and rebates or discounts on the purchase price of the stock.

CFTC 2012. SMP Bank and Epaster Investment Limited.

The CFTC alleged that Epaster Investments Ltd. was an investment company located in Cyprus, owned and controlled by two partners of SMP Bank for the purpose of investing the partners' funds. The CFTC alleged that the same SMP employees controlled SMP's and Epaster's trading account and that on three occasions in March 2012, SMP traded Japanese Yen options contracts listed on the CME with SMP and Epaster on opposite sides of trades in the same contract. According to the CFTC, each of the orders in question was equal and offsetting in size and price and was initiated at or near the same time. The orders were entered, and the trades executed, in an illiquid market at prices higher than prevailing bids and offers in the market at the time. The CFTC claimed that the SMP employees knew that the transactions resulted in "financial nullity" and "achieved a wash result".

CIRCULAR TRADING.

ASIC 2015. Derek Heath.

Heath ramped prices to induce investor participation in stocks, traded with himself and entered spoof bids and offers. Heath traded in shares and contracts for difference (CFDs) in four resource companies through nine separate share trading and CFD trading accounts. Between 2 July 2012 and 11 October 2013, Heath executed 30 simultaneous buy and sell transactions involving shares and CFDs relating to the resource companies which had the effect of artificially increasing the price for trading in those shares on the ASX. These trades, commonly referred to as 'matched trades', caused the price of the particular shares traded on the ASX to artificially increase between 3.1% and 6.9%.

TIME VARIATION.

SEC 2012. Steven Hart.

The SEC alleged that Hart used his control of Octagon Capital Partners, LP, a small investment fund, and his position of authority at an investment fund for which he was employed as a portfolio manager to direct thirty-one matched trades between the two investment funds, benefitting Octagon at the expense of his employer's fund. According to the SEC complaint, Hart caused Octagon to purchase stock in small, thinly traded issuers at the market price and, on the following day, sold the same stock to his employer's fund at a price substantially above the prevailing market price. Each of the sales from Octagon to the employer's fund occurred in premarket trading; thus, Hart ensured that the trades matched. Later that same day, or within a few days of the matched trades, the employer's fund, at Hart's direction, sold the recently-acquired stock on the open market at a loss. The SEC alleged that, as a result of this scheme, Hart generated gains of $586,338 for Octagon.

MONEY PASSES.

CFTC 2014. Fan Zhang.

The CFTC alleged that Zhang undertook fictitious sales and non-competitive prearranged trades in the Las Vegas Housing Market Futures Contract, the CME Cash-Settled Cheese Futures Contract and the CBOT Ethanol Futures Contract. Zhang transferred trading profits between two accounts which he controlled by undertaking buy and sell orders for the same price and volume between the accounts. One of the accounts was an investment club (which was 50 per cent. owned by Zhang) and the other account was held in the name of Zhang’s mother. Zhang engaged in the trades for the purpose of transferring money between the accounts.

FIRM FRAUD.

SEC 2015. Yumin Li and Kering Capital Ltd.

The CFTC alleged that Li defrauded Li's employer, Tanius Technology ("Tanius"), by trading the employer's account against a Kering account that Li controlled. Li placed orders for the Kering Account to buy Eurodollar futures against opposite side orders placed for the Tanius account at the same price and in the same volume. Li then undertook offsetting transactions to close out the position. The transactions were structured such that Li bought futures from the Kering account at higher prices and then sold those same futures back to Kering at lower prices (or the reverse). These transactions resulted in profits to Kering at the expense of Tanius.

CLIENT ACCOUNT FRAUD.

SEC 1949. Norris & Hirschberg ("NH").

NH dealt in both listed and unlisted stocks and bonds. It dealt primarily in local, unlisted securities and specialised in the issues of five small companies. It dominated the market in those securities.

Customers of NH were under the impression that NH acted as agent for them rather than as principal. It was generally believed by NH's customers that its income was derived primarily from the commissions it charged rather than mark-ups. NH's practice was to "constantly whip its specialties back and forth in its customers' accounts so that, within a short space of time, one can observe the interesting phenomenon of the same customers selling securities to NH and then a few days later buying the same securities back at higher prices." This "continual shuffling" of securities between customer's accounts allowed NH to accomplish its trading profits.

2. RAMPING.

FCA 2011. Geddis. LME Lead.

Geddis had responsibility for London Metal Exchange ("LME") trading and broking for his firm. He built a large position in short term Lead contracts traded on the LME and used this position to drive the price of those contracts to unprecedented levels during trading in the LME's open outcry session.

On 21 November 2008, Geddis began to build a position in Tom-Next Lead futures contracts by trading on the LME's electronic trading platform, LMEselect. By 08:28 he had undertaken 20 trades building a position equivalent to over 50% of the live warrants available that day. Geddis continued to borrow, undertaking another 26 trades. By 11:56, Geddis had increased his WTC (Warrants, Tom and Cash) position to over 122% of available warrants.

Geddis then traded through a broker in the "ring". Given the dominance of his position, had he been following the Lending Guidance, he would have opened the ring with an offer to lend at level. He did not do this, instead he waited to see where the market was trading and then put in his first offer to lend in the ring at double the price of the previous trade. Once that offer was filled, Geddis put new offers into the market each time his previous offer was filled.

1996 United States v. Catalfo.

Catalfo and Zimmerman bought CBOT Treasury bond put options and sold Treasury Bond futures in very large volumes with the intention of providing a negative signal to the market and igniting a momentum price decline. Catalfo and Zimmerman timed their trades with the release of the Department of Labor's unemployment statistics. In the first nine minutes of trading they bought 4,100 puts. Shortly after, bond prices began to plummet and Catalfo and Zimmerman sold their positions to make a sizeable profit.

3. POOLS.

1935. United States v. Brown et al.

In 1929 Brown owned (or controlled) 90,900 shares in the Manhattan Electrical Supply Co., Inc., of which he was president. The company had 125,000 shares listed on the New York Stock Exchange. McCarthy became associated with Brown in December 1929 and they agreed to sell the shares at constantly rising prices. To accomplish this, they opened 91 accounts with 52 different brokers, in their own names and those of their wives and in the names of others described as their "creatures". A single set of books contained all the purchases and sales, and the actors furnished the bulk of the money to carry out the strategy.

The actors paid brokers to recommend the stock and conducted "washing" sales. "Washing" sales were made possible by the numerous accounts controlled by the actors between whom transactions could be executed and then cancelled**.** The actors also published false statements of the earnings of the company. By these means they forced up the price to $55 in May 1930. Trading in the stock was suspended for several days after which the stock opened below $20 and never recovered.

US 1935. Harper v. Crenshaw et al.

Plaintiff alleged that defendants formed a pool to support the price of National District Bank. In 1928 Crenshaw and the other defendants were directors and stockholders of the District National Bank in Washington, D. C. They allegedly wanted to support the market price for the stock of the bank. The defendants entered into a "joint adventure" to buy and sell the capital stock of the bank. The pool agreed that Defendant Rogers would be the trustee for the "joint adventure" and control the bank accounts supporting it. Defendant Gockeler undertook sales and purchases on the basis of margin accounts funded by the pool with additional funding collateralised by pool holdings of the stock. The pool members shared equally in trading profits and losses.

SEC 2006. SEC v. Competitive Technologies Inc. ("CTT").

The SEC alleged that between July 1998 and June 2001, CTT, its CEO and others participated in a scheme to artificially raise and maintain the price of CTT's stock. According to the SEC, these persons placed buy orders at or near the close of the market in order to inflate the reported closing price (i.e. "marking the close"), placed successive buy orders in small size at increasing prices (i.e. "painting the tape") and using accounts they controlled or serviced, placed pre-arranged buy and sell orders in identical amounts ("matched trades") and placed other buy orders intended to minimize the negative impact on CTT's price from sales of the stock (i.e. pegging.) The SEC also alleged that the defendants used CTT's own stock purchase plan to offset selling pressure, place late day orders, and maintain the stock price.

FBI 2013. Mazuar, Kaplan and Others.

Federal authorities arrested 14 people involved in long-term schemes to manipulate stock prices that led to more than 20,000 investors losing over $30 million when artificially inflated stock prices collapsed.

According to the indictment, the actors gained control of the majority of the stock of publicly traded companies, concealed their control by purchasing and transferring shares to offshore accounts and to nominee entities; fraudulently inflated the prices and trading volumes of the companies' stocks through marketing campaigns, misleading press releases, payments to stock promoters, and "cross-trading" among themselves to make it appear that the stocks were being actively traded. The actors allegedly coordinated the sale of their positions at the peak of the manipulated markets and concealed the profits in nominee and offshore accounts.

4. PARKING.

EXTERNAL.

SFA 2001. Cole.

Cole attempted to arrange buy and sell backs to avoid internal limits and funding charges**.** Cole's overseas manager was informed prior to the February 1999 month end by his Finance department that charges would be applied to aged inventory as at the month end. On 26 February 1999, Cole was contacted by his manager who instructed him to sell certain aged inventory securities (small and illiquid Euro Yen bond positions) to a friend and then to buy them back at a small increase in price. During this conversation, the manager told Cole that he was not supposed to be telling him to do it, but he was to do it nonetheless. Following this call, Cole contacted two firms and offered to sell the securities and buy them back the following Monday at a small increase in price. No transaction was executed with either of these two firms and the securities were in fact subsequently sold outright to third parties with no agreement to repurchase. The SFA found that Cole's conduct in attempting the sale and buy-back trade amounted to a failure to observe high standards of market conduct.

SEC 2014. SEC v. Gonnella.

In May 2011, Gonnella (a trader at Firm A), was about to incur aged inventory charges on positions in several asset-backed securities. On 31st May, Gonnella contacted King (a trader at Firm B) to undertake parking transactions in four bonds to avoid the aged inventory charges.

King agreed to buy the bonds with the understanding that Gonnella would repurchase the bonds one day after the sale. Gonnella repurchased the bonds from King at one point more than King paid per bond, providing an immediate profit to Firm B at the expense of Firm A and allowing Gonnella to avoid the aged inventory charges.

At the end of August and the beginning of September 2011, Gonnella offered three bonds to King which King agreed to buy on Firm B's behalf. The next day Gonnella repurchased two of the three bonds at higher prices and sold King five more bonds. Two days later, Gonnella repurchased the additional five bonds. In September 2001, Gonnella repurchased the last remaining bonds that he had sold to King in August.

INTERNAL.

1973. SEC v. Resch-Cassin & Co.

Resch-Cassin & Co were underwriters to equity offering of 150,000 shared of Africa, a Delaware corporation. Under the terms of the offering, all 150,000 shares had to be sold within 60 days. The firm experienced difficulties in completing the distribution and arranged for a group of traders to support the offering by buying stock and trading between themselves. Resch-Cassin & Co, placed orders for its own account through the group and also undertook unauthorised trading on a client account.

US 1999. A.R. Baron.

Baron used parking transactions to conceal its true net capital position. Baron principals, traders and registered representatives had parking arrangements with Baron customers as well as with other broker-dealers. Some parking arrangements were agreed with customers who were paid to facilitate the trades. Others took the form of unauthorised trades undertaken for and booked to Baron customer accounts.

CAPITAL.

SEC 2001. In the Matter of Kent T. Black, Joel L. Hurst, David E. Lynch, Larry E. Muller and Robert L. McCook. SEC 2001.

Staff at First Montauk Securities undertook parking transactions in CMOs with Crestar Securities Corporation to avoid internal restrictions on position taking and net capital requirements. The transactions were concealed by pre-arrangement and intermediation of the transactions with and through a third party, Simmons Bank.

5. WINDOW DRESSING.

SEC 2009. SEC v. Eric Wanger.

Wanger (a fund manager) marked the close (i.e. placed execution orders shortly before the close of trading to artificially affect the closing price of the security) in four stocks on fifteen occasions. Wanger engaged in this conduct to artificially improve the Fund’s reported monthly and quarterly performance. Wanger’s manipulative trading inflated the Fund’s monthly reported performance by amounts ranging from approximately 3.60% to 5,908.71%, and artificially increased the Fund’s net asset value by amounts ranging from 0.24% to 2.56%.

SEC 2008. SEC v. Lauer.

Michael Lauer conducted a hedge fund fraud scheme that resulted in the loss of hundreds of millions of dollars in investors' funds. Lauer overstated his hedge funds' valuations for the years 1999-2002, manipulated the prices of seven securities that were a material portion of the funds' portfolios from November 1999 to April 2003, misled investors about the hedge funds actual holdings by providing them with fake portfolios and falsely represented the hedge funds' holdings in newsletters.

Lauer, a founder of Lancer Management Group and Lancer Management Group II, directed the day-to-day operations of five hedge funds. The investment strategies for the two largest funds, Offshore and Partners, were concentrated on investments in small and mid-cap companies that were "investment community pariahs." In a 1997 *Business Week* article, Lauer was quoted as stating that the Funds' secret was seeking out "fallen angels" - companies in which Wall Street firms have little or no interest.

The Funds relied on a few highly valued small cap issuers which were a substantial portion of their portfolios. The majority of the stocks in which the Funds were invested were thinly traded on the OTCBB and pink sheets. Most had virtually no operations or earnings but were assigned values in the hundreds of millions of dollars

Lauer manipulated the price of certain securities in which the Funds were invested. The manipulative trading practices consisted of purchasing blocks of certain thinly traded stocks, generally at increasing prices, at or near the close of the last trading days of the month. The purchases were made to raise the closing market price of certain stocks in the Funds' portfolios. The ultimate objective of the scheme was to overinflate the Funds' performances and NAVs.

SEC 2011. In the Matter of Donald L. Koch and Koch Asset Management.

During September through December 2009, Koch engaged in marking-the-close transactions in two securities so as to artificially increase the reported closing price of those securities. The closing prices affected the valuation of all of the Respondents' advisory clients' accounts that held the securities at the end of those quarters.

For example, Koch held positions in High Country Bancorp (HSBC). In December 2009, when the stock had a bid-ask quote of $14.05 to $16.70, Koch instructed his broker to "*Please put on your calendar to buy HCBC 30 minutes to an hour before the close of the market for the year. I would like to get a closing price in the 20 – 25 range, but certainly above 20*". The broker bought 3,200 shares with the final trade two minutes before the close at $19.50 (the closing price). The SEC found that Koch's motive for this trading activity was to affect the closing price of the security.

FCA 2011. Fagbulu and Visser.

Fagbulu and Visser were fund managers. They purchased small tranches of shares in two illiquid issuers at significant premiums above opening prices from a market maker. They also made additional purchases through a broker. The share prices increased accordingly, enhancing the gross performance of the fund by +5.2% for May 2007. Without the purchases the performance would have been +0.3% for the month. The purchases also led to breaches of mandate limits on the size of holdings in off exchange traded securities.

6. CLOSING AND REFERENCE PRICES.

STRIKE AVOIDANCE.

FCA 2011. Goenka.

Goenka ramped the closing price of Reliance GDRs to avoid a strike on a three-stock basket Structured Product. Goenka used large serial simultaneous buy and sell orders at the close to ramp the price of relevant stocks.

Goenka purchased two structured products in 2007. Structured Product 1 was a "3Y USD Phoenix Plus Worst of Gazprom/ Lukoil/ Surgut" issued on 30 April 2007 which had a maturity date of 30 April 2010. Structured Product 2 was an "Airbag Leveraged Laggard Note" on Indian ADRs issued on 17 October 2007 which had a maturity date of 18 October 2010. The Structured Products each had a cost (face value) of USD 10 million. The Structured Products related to a basket of three GDRs, representing shares in three different companies. For both the Structured Products the final pay-out to Goenka was dependent on the closing price of the worst performing or "laggard" of the three different GDRs on the stated maturity dates.

In early April 2010, an investment adviser to Goenka (A), approached B, a London-based broker, on behalf of Goenka, to establish whether it was possible to increase the closing price of certain GDRs on a given date by placing large trades in the LSE closing auction. A strategy was developed to manipulate the closing price in Reliance stock which was the laggard in Structured Product 2.

On 18 October 2010 at 3.19pm, approximately 10 minutes before the closing auction commenced, Goenka called B to confirm his orders for closing auction trades. Reliance GDRs were trading at USD 48.28. Goenka provided B with details of the following orders that he wished to place:

(i) simultaneous buy and sell orders of 100 GDRs at USD 48.69;
(ii) simultaneous buy and sell orders of 100 GDRs at USD 48.71;
(iii) an order to buy 18,000 GDRs at market. An order at market has no price limit and is given priority in the uncrossing phase of the auction;
(iv) an order to buy 770,000 GDRs at USD 48.71;
(v) a further standby order of 351,000 GDRs at USD 48.69 to act as "a cushion" and only be released on Goenka's instructions.

Goenka's orders were equivalent to 280% of the average daily volume of trading in Reliance GDRs at that time. All the orders were above the knock-in price and the level at which the GDRs were trading at the time. In total the orders, if filled in their entirety, would have required an expenditure of approximately USD 55.4 million.

Goenka was in continuous contact with B during the closing auction. During that time the first four orders were placed. The order to buy 18,000 at market was entered at 3:39:50 pm, and the order to buy 770,000 at USD 48.71 was entered at 3:39:52 pm, ten and eight seconds

respectively before the start of the randomisation period. The “cushion” order to buy 351,000 was not entered.

Prior to entering the final order for 770,000 GDRs the Reliance IUP was USD 47.93, 72 cents below the “knock-in price” of USD 48.65. The impact of Goenka’s orders was to increase the IUP price to USD 48.71, 6 cents above the “knock-in price”. This higher indicative IUP was maintained throughout the remainder of the auction, and became the uncrossing, or closing, price.

MARKING THE CLOSE.

CFTC 2012. Optiver.

Optiver traded a large volume of Crude Oil, Heating Oil, and New York Harbor Gasoline futures contracts to manipulate the settlement price for these contracts. Optiver’s trading was conducted on the Globex electronic trading platform. Globex operates on a “first in, first out” system. Bids and offers quoted at the same price were executed based on the order in which they were entered into the system. To ensure that its orders were first in the queue, Optiver designed a software program referred to as the “Hammer,” which was created to rapidly enter a series of orders into Globex.

CFTC 2013. Daniel Shak and SHK Management, LLC.

Daniel Shak and SHK Management (“SHK”) attempted to manipulate the price of Light Sweet Crude Oil (“WTI”) futures contracts on the New York Mercantile Exchange. SHK established substantial net short positions in WTI futures contracts through Trading at Settlement “TAS”, an exchange rule which permits the parties to a futures trade to agree that the price of the trade will be that day’s settlement price − or the settlement price plus or minus a specified differential. The CFTC found that SHK traded a significant volume of futures contracts in the opposite direction, building a long position, before and during the two-minute window of the closing or settlement period in an effort to influence the price of WTI futures contracts. The settlement price of WTI futures contracts, including the TAS WTI futures contracts, is determined by the volume-weighted average price of trades executed during the close. According to the CFTC, SHK used this trading strategy to drive the settlement price of the WTI futures contract higher than the average cost of the long position that SHK established before the start of trading during close.

US 2005. Black v. Finantra Capital.

Robert Press and David Horlington, acting on behalf of Finantra Capital Inc., personally solicited Herbert Black to make a private purchase of restricted shares from Finantra. Black subsequently discovered that Finantra was engaged in a scheme to manipulate its stock price. Witnesses testified that the scheme involved Finantra (and affiliates and insiders) selling unregistered Finantra shares at below-market prices and then using the proceeds to purchase Finantra stock on the market at higher prices, essentially dissipating Finantra's capital in order to buy back its own stock at an inflated price. Witnesses also testified that the broker

executing Finantra's buybacks was "marking the close" by making purchases at the end of the day.

CFTC 2013. Donald R. Wilson (Wilson) and DRW Investments, LLC (DRW).

The CFTC alleged that Wilson and DRW Investments manipulated and attempted to manipulate the price of the IDEX USD Three-Month Interest Rate Swap Futures Contract (the "Contract"). The Contract was listed by the International Derivatives Clearinghouse ("IDCH") and traded on the NASDAQ OMX Futures Exchange. In 2010, DRW acquired a large long (fixed rate) position in the Contract with a net notional value in excess of $350 million. The daily value of DRW's position was dependent upon the daily settlement price of the Contract calculated according to IDCH's methodology. The methodology relied, in part, on electronic bids placed on the exchange during the "settlement window," a 15-minute period, prior to the close of each trading day. In the absence of such bids, the exchange used prices from over-the-counter markets to determine its settlement prices.

Wilson and DRW anticipated that the value of their position would rise over time. Market prices did not reach the level that Wilson and DRW had expected. Therefore, the CFTC alleged that Wilson and DRW executed a manipulative strategy to move the Contract price in their favour by "banging the close," which entailed placing numerous electronic bids almost entirely within the settlement window and withdrawing such bids shortly thereafter. According to the CFTC, Wilson and DRW's scheme caused artificial prices on the Contract over a period of at least 118 trading days.

SEC 2014. Athena Capital Research.

Athena was a high-frequency trading firm that, according to the SEC, developed a complex computer program to carry out a manipulative scheme that consisted of marking the close price of publicly-traded securities. Athena allegedly developed a series of algorithms called "Gravy", which assisted Athena in making large purchases or sales of stocks in the first few seconds before market close in order to drive closing prices slightly higher or lower.

Athena's trading focused on trading in order imbalances in securities at the close of the trading day. Imbalances occurred when there were more orders to buy shares than to sell shares (or vice versa) at the close for any given stock. Every day at the close of trading, NASDAQ ran a closing auction to fill all on-close orders at the best price, one that is not too distant from the price of the stock just before the close. Athena placed orders to fill imbalances in securities at the close of trading, and then traded or "accumulated" shares on the continuous market on the opposite side of its order with the goal of holding no positions by close. According to the SEC, Athena used these strategies to help generate profits, and, with help from its Gravy algorithms, refined a method to manipulate the process used to set closing prices.

7. CHERRY PICKING.

CHERRY PICKING – SIDE BY SIDE FUNDS.

FCA 2014. Aviva.

Aviva Investors employed a side-by-side management strategy on certain desks within its Fixed Income business whereby funds that paid differing levels of performance fees were managed on a side-by-side basis, i.e. by the same desk. A proportion of these performance fees were paid to traders In Aviva Investors fixed income business who managed the funds.

This incentive structure created conflicts of interest as these traders had an incentive to favour one fund over another. This risk was particularly acute on desks where funds traded in the same instruments. Traders could delay recording the allocation of executed trades for several hours. By delaying the allocation of trades, traders who managed funds on a side-by-side basis could assess a trade's performance during the course of the day and, when it was recorded, allocate trades that benefitted from favourable intraday price movements to one fund and trades that did not to other funds.

CHERRY PICKING – CLIENT TO PA ACCOUNTS.

SEC 2015. Mark P. Welhouse and Welhouse & Associates Inc.

Welhouse & Associates Inc. and its sole owner, Mark P. Welhouse, allegedly engaged in fraudulent trade allocation, or "cherry picking", by unfairly allocating options trades between various client accounts. The defendants allegedly inappropriately allocated options trades that had appreciated in value during the course of a trading day to the owner's personal and business accounts while allocating trades that depreciated in value to client accounts. According to the SEC, Welhouse was able to unfairly allocate the trades by purchasing options in an omnibus or master account for Welhouse & Associates Inc. and delaying allocation of the purchases until later in the day after he saw whether or not the securities appreciated in value.

CHERRY PICKING – FIRM ACCOUNTS.

CFTC 1998/1999. Steven G. Soule, Kyler F. Lunman II and Hold-Trade, Inc.

From September 1993 to December 1994, the actors engaged in a scheme in which they defrauded Coastal Corporation by misappropriating its energy futures trades made on behalf of Coastal and allocating them to accounts they controlled. Soule, as the Coastal employee responsible for entering its energy futures orders to the floor of the NYMEX, allocated profitable Coastal trades to futures trading accounts owned or controlled by Lunman and Hold-Trade Inc. who, along with Rossi, distributed the profits among the members of the scheme. Soule and Thomas F. Demarco, a telephone clerk on the NYMEX, ensured the successful completion of the wrongful allocations by creating false floor order tickets and entering into additional transactions to replace those that were misappropriated.

CHERRY PICKING – BETWEEN CLIENT ACCOUNTS.

CFTC 1999. In re Mitsopoulos, et al.

The CFTC brought charges based on an alleged fraudulent trade allocation scheme by an introducing broker ("IB") over a two-year period. S. Jay Goldinger was a registered IB with Refco Inc. Goldinger fraudulently allocated trades among dozens of Refco customer accounts based on the trades' profitability by, among other things, delaying the assignment of customer account numbers until after trades had been executed, and directing Refco phone clerks to change account number for trades previously executed. Goldinger entered orders for thousands of Treasury bond futures and options contracts per day for its customers through respondent Constatine Mitsopoulos' Refco floor desk at the Chicago Board of Trade. Mitsopoulos allowed Goldinger to enter orders through the Refco desk without providing account identification at the time trades were given. In addition, Mitsopoulos allowed the Refco desk clerks to help Goldinger change account numbers for trades already executed. As a result, Goldinger was able to allocate more profitable trades to certain customer accounts and less profitable trades to other customer accounts.

8. FRONT RUNNING.

FRONT RUNNING – CLIENTS.

2004 FSA. Bruce/Gamwells.

Client order information was passed to internal proprietary traders and to other clients. This allowed for front running by frim proprietary traders and third parties.

Traders at Brandeis took advantage of confidential information as to customer intentions and orders. Information as to the orders and intentions of customers was confidential. Brandeis and its employees were not authorised to disclose such information either internally or externally, save as was necessary in order to facilitate the provision of advice or the execution of orders.

On occasions in 1996 and 1997, Brandeis traders misused confidential information through disclosure of customer intentions and orders to both Brandeis proprietary traders and to third parties; and by trading ahead of customers for the benefit of proprietary trading books or for the benefit of third parties.

FRONT RUNNING – OWN ACCOUNT.

SEC 2013. Bergin.

Daniel Bergin was a senior equity trader at an asset management firm. The SEC alleged that Bergin made over $500,000 by using confidential trading information regarding the size and timing of securities trades to purchase securities in his wife's accounts before placing large trades on behalf of his firm's clients.

FRONT RUNNING OWN FIRM.

CFTC 2015. In the Matter of Motazedi.

Arya Motazedi, a proprietary trader in gasoline futures, used his firm’s proprietary information to trade in his personal account. Motazedi had non-public information relating to the intended trading of his employer including the timing, contracts, prices and sizes of intended trades.

Between September and November 2013, Motazedi prearranged 34 trades between his employer’s account and personal accounts at prices which disadvantaged his employer. Motazedi caused the employer’s account to buy at higher prices and sell at lower prices in trades opposite two personal accounts. Motazedi also placed orders for his personal accounts ahead of orders for his former employer’s account on some 12 occasions thereby generating additional profits for himself to the detriment of his employer. According to the CFTC, Motazedi’s trading activity caused his employer approximately $216,955 in trading losses.

FRONT RUNNING – DISCLOSURE TO THIRD PARTIES.

CFTC 1998. Kelly/Rhee.

Thomas Kelly, a commodities trader for John W. Henry & Company, disclosed information as to his employer's confidential trading activity and strategy in gold futures to Andrew Rhee, who owned his own trading company. Rhee then traded on this confidential information generating personal profits.

FCA 2012. Sidhu.

Between 15 May 2009 and 22 August 2009, Rupinder Sidhu (a management consultant) and Anjam Ahmad (a hedge fund trader and risk manager with AKO Capital LLP "AKO") conspired to front run the trading business of AKO. In his role as a trader at AKO, Ahmad had inside information about forthcoming equity transactions by AKO. Ahmad would tip off Sidhu as to which shares AKO would buy and sell on a particular day. Ahmad would "hold back" on making the trades enabling Sidhu to place spread bets to front run AKO.

TECHNOLOGY: CLIENT FRONT RUNNING.

SEC 2015. ITG Inc. and AlterNet Securities.

The SEC alleged that ITG Inc. operated an alternative trading system, commonly referred to as a dark pool, known as POSIT. AlterNet, an affiliate of ITG, provided trading algorithms and smart order routers that sent orders to various market centers including POSIT.

According to the SEC, between April and July 2011, ITG operated a proprietary trading desk known as "Project Omega." Project Omega accessed live feeds of ITG customer and POSIT subscriber order and execution information and traded algorithmically based on that confidential information in both POSIT and other market centers. The SEC claimed that as part of one of its trading strategies, Project Omega identified and traded with sell-side POSIT subscribers and ensured that those subscribers' orders were configured in POSIT to trade "aggressively" so as to benefit Project Omega.

9. GUARANTEES AND INDEMNITIES.

US 1967. A.T. Brod & Co v. Perlow.

The plaintiff alleged that A.T. Brod & Co. purchased securities on the New York Stock Exchange with the intent of paying for the securities only if their market value had increased by the date payment was due, and that Brod refused to pay for the securities when the price declined.

US 1944. United States v. Minuse.

Norman W. Minuse and Joseph E. Pelletier, under the name of N. W. Minuse & Company, traded Tastyeast Class A stock on the New York Curb Exchange. In 1935, they obtained an option on 73,000 shares of the stock and then used "wash sales", "matched sales" and "dummy accounts" to manipulate and inflate the price of the stock above the option price. Wash and matched trades were undertaken between "dummy accounts" which comprised persons operating at the direction of Minuse and Pelletier. The dummy accounts of friends and associates were induced to participate in the scheme by means of guarantees against loss and rebates or discounts on the purchase price of the stock.

US 1976. United States v. Corr.

Corr and brokers at three brokerage firms manipulated the sale and purchase of the stock of Jerome Mackey's Judo, Inc. ("Judo") from June 1971 to June 1973. Judo stock was purchased and sold through various brokerage firms at Corr's direction or with his knowledge and assistance, and in various accounts at brokerage firms without the authority of those in whose names the accounts were opened. Corr kept in constant contact with each of the brokers who were encouraged to solicit purchases of Judo stock and was informed by each of them as to their positions in the stock and the names of all buyers and sellers. Corr "directed orders" to and from each of these brokers and advised them when and where to buy and sell Judo stock. Corr directed the two principal market makers in Judo stock, to maintain the high bid on Judo stock.

Corr also arranged for the "parking" of Judo securities with various brokers to limit market supply. At the same time that Corr was directing these transactions, he was buying and selling Judo stock for his own benefit.

In order to maintain the market price of Judo, Corr also instructed a broker to keep the "high bid" in Judo stock and at the same time instructed another to create demand by placing "wooden tickets" at brokerage firms. A wooden ticket was described as an order to purchase securities for which the purchaser did not pay whether or not the intention not to pay existed at the time of the order.

10. SQUEEZES AND CORNERS.

US 1955. Onions. Vincent Kosuga and Sam Seigel.

In 1955, two onion traders, Sam Siegel and Vincent Kosuga, cornered the onion futures market on the Chicago Mercantile Exchange.

The complaint alleged that, in the autumn of 1955, Siegel and Kosuga attempted to manipulate upward prices of the onion future on the exchange and cash onions, and that in the winter of 1956, they manipulated downward prices of onion futures and cash onions. In order to put upwards pressure on the price of onion futures, they bought sufficient physicals and futures to control 98% of the available onions in Chicago and then entered into agreements with onion growers pursuant to which the growers would purchase and take title of car-lots of onions and merchandise them in regular channels of trade. They agreed that they would make no deliveries of onions on any exchange for the balance of the onion season. The purpose of this agreement was to remove potential deliveries of onions to the Chicago Mercantile Exchange, thereby increasing or preventing a decrease in the prices of futures and of cash onions.

In order to manipulate the price of onion futures downward, Siegel and Kosuga developed a dominant short position in onion futures, maintained that position during the weeks just prior to the beginning of the delivery period while other shorts were covering, carried a large short interest into the delivery month, maintained a complete monopoly of cash supplies, and made deliveries as soon as the delivery period opened.

US 1963. Soybean Oil.

In what is known as the Great Salad Oil Swindle, Anthony DeAngelis, owner of the Allied Crude Vegetable Oil Refining Corp., created false warehouse receipts for non-existent soybean oil (through a variety of methods including filling storage tanks with water and covering the water with a thin layer of soybean oil on top) and used those receipts as loan collateral to finance heavy trading of soybeans, soybean oil, and cottonseed oil futures (including a 1962 attempt to corner the soybean market). The scandal caused 16 firms (including two Wall Street brokerage houses) to go bankrupt and led to calls for increased regulation of the commodity futures markets. DeAngelis was convicted in 1965 and sentenced to ten years in prison.

CFTC 2011. Parnon Energy Inc., Arcadia Petroleum Ltd., Arcadia Energy (Suisse) SA, et al.

The CFTC alleged that, from 2007 through 2008, a common enterprise of crude oil speculators (“Arcadia”) manipulated and attempted to manipulate the contract prices of the New York Mercantile Exchange (“NYMEX”) West Text Intermediate (“WTI”). According to the CFTC complaint, Arcadia took advantage of a tight physical market, executed a manipulative trading strategy designed to affect NYMEX crude oil futures contract spreads by building a dominant controlling position in physical WTI crude oil deliverable at Cushing, Oklahoma under the NYMEX futures contract; holding the physical position until after futures expiry with the intent to affect NYMEX crude oil spreads and selling off the physical position in a concentrated fashion during the cash window at a loss. The complaint further alleged that Arcadia sought to generate profits by buying WTI futures spreads prior to widening the spreads through their

manipulation and selling WTI futures spreads prior to selling their physical WTI crude oil position.

SEC 1994. Securities and Exchange Commission v. Mozer and Murphy.

The SEC alleged that Paul Mozer and Thomas Murphy, former managing directors at Salomon Brothers Inc., submitted false customer bids in auctions of U.S. Treasury securities, some of which were submitted in the names of customers without their knowledge or authorisation, but were actually on behalf of Salomon. The complaints alleged that these bids were made to circumvent the limitations imposed on the amount of securities any one person or entity may purchase in an auction.

CFTC 1996. Fenchurch Capital Management.

According to the CFTC, in June 1993, Fenchurch committed to take delivery on a large long position in the June 1993 Ten-Year U.S. Treasury Note Futures contract (June contract) traded on the CBOT. The CFTC found that, during the last four business days of the delivery period and after the last trading day on the June contract, Fenchurch gained and maintained control and over a dominant portion of the available supply of the cheapest-to-deliver Treasury Notes on the June contract. The terms of the June contract allowed a range of Treasury Notes to be delivered, but typically one note becomes the cheapest-to-deliver and the price of the futures contract converges with the cash market value of the cheapest-to-deliver at expiration of trading on the contract. The CFTC concluded that Fenchurch increased its position in the cheapest-to-deliver note through a series of transactions in the repurchase market at a time when the Notes were in tight supply, which exacerbated tightness. As a result, shorts on the futures contracts were unable to obtain sufficient quantities of the notes and had to deliver a more valuable security.

FCA 2014. Stevenson.

Stevenson bought £331 million of the UKT 8.75% 2017 (the “Bond”), a UK government gilt, between 09:00 and 14:30 on 10 October 2011. The Bond was relatively illiquid, and Stevenson’s purchases represented approximately 2,700% of the average daily volume traded for the Bond in the previous four months and 92% of the value of the Bond purchased in the IDB market on 10 October 2011. The price and yield of the Bond significantly outperformed all gilts of similar maturity on 10 October 2011, as a direct result of Stevenson’s trading.

This trading took place on the first day of the second round of Quantitative Easing in the UK. During Quantitative Easing, The Bank of England purchased certain gilts from GEMMs, injecting money directly into the economy with the aim of improving liquidity, stimulating growth and moving inflation towards the 2% target. Offers for sale of eligible gilts to the Bank of England could be made by GEMMs between 14:15 and 14:45 on 10 October 2011. Stevenson offered to sell £850 million of the Bond to the Bank of England on 10 October, which included the £331 million acquired that day. Stevenson’s offer price to the Bank of England was based upon the prevailing market price for the Bond, which had been influenced upwards by his trading that day. The FCA concluded that Mr Stevenson’s trading on 10 October 2011 was designed to move the price of the Bond in an attempt to sell it to the Bank of England at an abnormal and artificial level, thereby increasing the potential profit made from the sale of the Bond.

11. BULL AND BEAR RAIDS – RUMOURS.

UK 1814. R v. de Berenger 1814.

This case involved of a conspiracy between de Berenger, Sir Thomas Cochrane and six others to profit from false information that Napoleon Bonaparte had been killed. De Berenger appeared in the port of Deal disguised as a Bourbon Officer and calling himself Lieutenant Colonel Du Bourg, reporting that Napoleon had been killed by the Prussians. He then sent a false letter to that effect to the Port Admiral for transmission to the Admiralty in London by semaphore telegraph (which was expected to be published in the press). Co-conspirators paraded across London Bridge in a post chaise proclaiming an allied victory and handing out handbills to that effect. The price of UK Gilts rose on the news and the conspirators sold the substantial amounts of Gilts on the London market which they had purchased prior to their bull raid.

US 1979. Zweig and Bruno v. Hearst Corporation.

Richard Zweig and Muriel Bruno sued Alex Campbell, a financial columnist for the Los Angeles Herald-Examiner; Campbell's employer, the Hearst Corporation and H. W. Jamieson and E. L. Oesterle, directors of American Systems, Inc. (ASI).

Campbell wrote, and the Herald-Examiner published, a column that contained a highly favourable description of ASI. The plaintiffs alleged that the directors of ASI had made material misrepresentations and omissions in an interview with Campbell and hoped that he would publish false information "puffing" ASI shares. Campbell published the favourable story about ASI after first buying 5,000 shares from the company at a substantial discount below their market price.

US 1985. Robert Foster Winans.

Foster Winans was a columnist for The Wall Street Journal and co-wrote the "Heard on the Street Column" from 1982 to 1984. Because of its perceived quality and integrity, it had an impact on the market prices of the stocks it discussed. He was convicted in 1985 of leaking advance word of the contents of his columns to a stockbroker, Peter N. Brant, at Kidder, Peabody & Co. Winans entered into a scheme with Kenneth Felis and Brant who, in exchange for advance information from Winans as to the timing and contents of the column, bought and sold stocks based on the column's probable impact on the market and shared their profits with Winans.

UK 2005. Bhoyrul/Hipwell (The “City Slickers” Case).

Hipwell and Bhoyrul were journalists at the Daily Mirror who produced the “City Slickers” column in which they tipped various shares. They were convicted of conspiring to use the column to spread favourable rumours about shares between August 1999 and 2000. Hipwell and Bhoyrul would purchase positions in these stocks immediately before they were tipped in the City Slickers column and sell them soon afterwards making a profit from the resulting price increase. Shepherd, a private investor, was also convicted for taking part in the scheme.

NEW MEDIA – TECHNOLOGY ADAPTATION.

UK 2005. Issacs.

Isaacs obtained material non-public information relating to TrafficMaster, an LSE listed company, after reading copies of the company minutes which had been left at an acquaintance's house. The minutes contained details of expected profits and product development. Isaacs purchased the stock and subsequently posted anonymous opinions on internet bulletin boards with the intention of increasing the share price to benefit his holding.

SEC 2006. SEC v. Zafar and Thawani.

Faisal Zafar and Sameer Thawani perpetrated securities fraud using the internet. Between 2004 and 2006, Zafar and Thawani engaged in a "pump and dump" scheme to manipulate the market for 24 illiquid microcap and small cap stocks. After buying shares at prevailing market prices, Zafar and Thawani used online aliases to post messages touting the stocks and containing false press release excerpts and other false "news" about the issuers to deceive investors. The false headlines allegedly created by the actors included references to large business contracts, mergers and strategic alliances between the issuers and major corporations (such as Google, Kmart and Sun Microsystems) and other developments designed to make the targeted stocks appear to be significant investment opportunities.

The basic structure of the alleged scheme was:

- One or both of Zafar or Thawani would purchase shares of the issuer's stock in their online brokerage accounts;
- Zafar and Thawani would register multiple online identities with internet message board services;
- They would post multiple messages regarding the touted stock or to other, more widely followed stocks;
- The messages contained false statements about the issuers and urged other investors to buy the stocks; and
- As soon as the stock prices increased due to purchases induced by the false statements, the defendants sold their shares at the inflated prices.

After the sales, the prices of the stocks would return to their pre-manipulation levels. These events sometimes occurred within the span of a single day.

INSTANT MESSAGES.

SEC 2008. Berliner.

Paul S. Berliner was a registered representative of a broker-dealer, Schottenfeld Group, LLC. In May 2007, Alliance Data Systems Corp. ("ADS") announced it was to be acquired by the Blackstone Group. In November 2007 Berliner allegedly drafted and disseminated false rumours that ADS's board of directors was meeting to consider a revised proposal from Blackstone to acquire ADS at a significantly lower price than previously reported. According to the complaint, Berliner disseminated this instruction via instant messages to brokers and hedge funds. The rumours were reported in the press and Alliance stock fell 17%. Berliner had shorted Alliance stock before disseminating the fake rumours.

FACEBOOK, TWITTER, APP ALERTS.

SEC 2010. SEC v. McKeown and Ryan.

A Canadian couple, Carol McKeown and Daniel F. Ryan, used their website (PennyStockChaser), Facebook and Twitter accounts to tout various U.S. microcap companies. In some cases, the defendants received shares of these microcap companies from the issuers' affiliates or third parties as compensation for touting the issuers' stocks. McKeown and Ryan used PennyStockChaser and social media accounts to predict significant price increases for the microcap companies, while simultaneously selling their shares on the open market.

IMS USING BONA FIDE BROKER IDs.

SEC 2015. SEC v. Craig.

The SEC alleged that James Alan Craig manipulated the share prices of two publicly traded companies by tweeting false and misleading information. Craig allegedly used a fabricated Twitter account to tweet rumours that federal law enforcement agencies were investigating Audience, Inc., a public technology company, for fraud, and that Sarepta Therapeutics, Inc., a public biopharmaceutical company, had tainted drug trial results which had led to a federal government agency seizing evidence. The SEC said these deceptive the tweets were made from Twitter accounts mimicking established securities research firms. According to the SEC, Craig attempted to capitalise on the downward movement in the stock price by buying the shares of the companies' stock soon after the share prices fell in response to the false tweets, and later selling these shares.

12. INSIDE INFORMATION.

INSIDER DEALING – MARKET.

FCA 2011. Massey.

Massey was a corporate advisor to Eicom plc. He was aware that Eicom were to undertake an equity placing at a significant discount to the current market price. Massey shorted the stock ahead of that new issue and subsequently covered the position with new issue stock the lower price.

On 1 November 2007, Massey possessed inside information concerning Eicom plc (a company then listed on the Alternative Investment Market of the London Stock Exchange). Eicom had expressed its willingness, short of a legally binding commitment, to issue up to 3 million shares (then more than 9 per cent of Eicom's existing issued share capital) at 3.5p per share (then a 59 percent discount to the market price) to Massey. Massey knew that it was very likely that Eicom would proceed to issue if he requested them to do so.

By a series of emails, Massey agreed with Eicom that it would hold the offer to issue the shares open until 2 November 2007. On the morning of 1 November 2007 Massey sold short 2.5 million Eicom shares to a third party for 8p per share. Almost immediately afterwards, Massey contacted Eicom stating that he would like to purchase 2.6 million Eicom shares at a price of 3.5p per share, as had previously been discussed. Eicom did issue the 2.6 million shares to Massey thereby enabling him to cover his short position on the 2.5 million shares he had sold earlier at 8p per share. This transaction resulted in Massey making a personal profit of £111,474.

CORPORATE INSIDERS.

FCA 2009. Clifton/Byron Holdings.

Clifton was a Non-Executive Director of Byron Holdings ("Byron"), a Falkland Islands incorporated company. Clifton directed Byron Holdings to purchase shares in Desire Petroleum plc ("Desire").

Desire was founded in 1996 to explore for oil and gas in the Falkland Islands and was quoted on the Alternative Investment Market of the London Stock Exchange ("AIM"). Clifton was a founding director of Desire in 1996 and was a Non-Executive Director. He was also a director of and shareholder in Byron Holdings Limited ("Byron").

Clifton was aware that Desire was in advanced discussions with another company in relation to an agreement for that company to "farm-in" to Desire's exploration prospects (i.e., enter a joint venture drilling arrangement). This constituted inside information. Desire issued an announcement on 25 February 2008 that it had concluded the farm-in agreement. The shares rose 36% on the announcement.

Clifton directed Byron to purchase shares in Desire on four separate occasions during the relevant period. Byron had the inside information relating to the farm-in agreement as a result of Clifton's knowledge of it (although the other directors of Byron were not aware of the inside information). By directing Byron to purchase the shares, Clifton took action to require Byron to engage in behaviour which, if engaged in by Clifton, would have amounted to market abuse.

2010. Sepil/Ozgul/Akca.

Sepil was CEO of Genel Enerji A.S. ("Genel"), a Turkish registered company with oil operations in the Kurdistan region of Northern Iraq. Heritage Oil Plc ("Heritage"), a public limited company quoted on the London Stock Exchange, was also engaged in oil operations and had a licence to operate the Miran field in Kurdistan.

In 2009 Heritage announced that it had encountered oil shows during drilling operations at Miran, and that good quality light, sweet oil was recovered to the surface. It announced that it was preparing to test the well and that testing was anticipated to take up to one month to complete. Genel acquired a 25% interest in the Miran licence granted to Heritage. Genel and Heritage entered into a non-disclosure agreement to allow them to share confidential information to further discussions about a possible merger.

Genel received detailed reports of the drilling tests at Miran from 17 April 2009. On 3 May 2009, the Miran tests were concluded and Genel was informed of the positive conclusion of the tests.

Sepil came to London on 4 May 2009 to attend meetings, accompanied by colleagues from the senior management team at Genel. This team discussed the results of the Miran tests carried out by Heritage, and it was agreed that the outlook for Heritage was positive. By the time of the meetings in London, Sepil and his team were aware that Heritage had concluded its drilling tests at Miran and that these tests had gone well. Prior to this, Sepil had not traded in Heritage shares.

Between 4 and 5 May 2009, Sepil gave instructions to his agent to buy Heritage shares to the value of $2 million with an upper limit of £4.00 per share. His executives, Akca (Exploration Manager) and Ozgul (Chief Operating Officer of Genel) also placed orders with their brokers to buy shares in Heritage on 5 May 2009. Akca travelled to Heritage that morning to discuss the draft press release relating to the testing results with Heritage representatives which was to be released the following day.

CORPORATE ADVISORS.

FCA 2004. Bracken.

Bracken was PR and Communications consultant to Whitehead Mann. He sold shares short twice: once ahead of a negative company announcement and again just before the announcement of the company's interim results.

FCA 2005. Arif Mohammed.

Mohammed was an auditor working for an international audit firm. He bought shares in Delta plc ("Delta"), a London Stock Exchange listed electrical and engineering services company, based on his knowledge that the company intended to sell its electrical division. Mohammed knew this information because Delta's electrical division was an audit client of his firm and he worked on the company's audit. He was told that this information was confidential. He was aware that the sale process was ongoing and was getting close to agreement. Based on this information, he purchased shares in Delta. Delta announced the disposal on 9 December 2002 and Mohammed sold his shares the following day.

FCA/SEC 2011. Sanders and Saunders & Swallow.

A dealing ring was formed between James Sanders, a director of Blue Index (a specialist Contract for Difference brokerage), his wife Miranda, James Swallow (a former employee at Blue Index) and Arnold and Annabel McClellan. Arnold McClellan was a senior partner in a US accounting firm that was an 'insider' to a number of mergers and acquisitions in US securities listed on the NYSE and NASDAQ exchanges. Miranda Saunders and Annabell McClellan were sisters.

Inside information was leaked by Arnold or Annabel McClellan and passed to James and Miranda Sanders who used the information to commit insider dealing in the relevant US securities between October 2006 and February 2008.

James Sanders also disclosed information to others including James Swallow, who used that information to commit insider dealing. In addition, James Sanders encouraged clients of Blue Index to trade in CFDs on the basis of the inside information. James Sanders created spread bets to cash in on the information for both himself and his clients.

SEC 2017. Hedayati.

According to the SEC, Nima Hedayati, a junior auditor, learned through his work that Lam Research Corporation was preparing to acquire KLA-Tencor Corporation ("KLA"). Soon after learning this confidential information, Hedayati purchased out-of-the money call options on KLA common stock in his brokerage account and in his fiancée's brokerage account. He also advised his mother to trade KLA common stock, which she did. After the merger was publicly announced, KLA's stock price increased nearly 20% and Hedayati and his mother profited from their KLA trades.

RELATIONSHIP CASES.

FCA 2009. Uberoi and Uberoi.

During the summer of 2006 Matthew Uberoi was an intern at a corporate broking firm working on takeovers and other price sensitive transactions. He passed inside information to his father, Neel Uberoi, in relation to three transactions. His father then purchased shares in those companies and made substantial profits.

FCA 2010. Burley and Burley.

Jeremy Burley ("JB") was the Managing Director of BMS Minerals Limited ("BMS"), a Ugandan company which provided vehicles and equipment for oil and gas exploration companies in Uganda including Tower Resources Plc ("Tower Resources"). Tower Resources was incorporated in the UK with shares quoted on the Alternative Investment Market of the London Stock Exchange ("AIM"). On or around 11 June 2009, JB acquired inside information concerning the results of an exploration of Tower Resources' first oil well in Uganda, namely that the drilling looked unlikely to produce oil and that the exploration of a second well was therefore unlikely to proceed. Prior to a public announcement on 15 June 2009 by Tower Resources of this negative news, JB passed that inside information to his father, Jeffery Burley and another individual, and instructed Jeffery Burley to sell JB's 790,000 shares in Tower Resources.

FCA 2012. Littlewood & Littlewood.

A case of insider dealing by a banker and his wife. Littlewood and his wife pleaded guilty to eight counts of insider dealing in a number of different London Stock Exchange and AIM listed shares between 2000 and 2008.

DISCLOSURE.

FCA 2012. Kyprios.

In November 2009, a US telecommunications company, Liberty Global, Inc., ("Liberty") agreed to acquire Unitymedia GmbH ("Unitymedia"), a German cable television company. Liberty appointed an international bank as lead book runner for a potential €2.5 billion bond issue the proceeds of which were likely to be used to finance the acquisition and refinance outstanding debt. Prior to the announcement of the takeover and issue, Kyprios, who worked in credit sales for a bank, signalled non-public information to two Fund Managers against the express instructions of his employer and despite the fact that the Fund Managers asked not to be wall crossed. Kyprios disclosed that Unitymedia was potentially about to bring a big bond issue to market; that the issue was intended to be announced the next day; the potential rating of the issue, the fact that Unitymedia would redeem outstanding bonds; and that the issue was M&A-related. The information was price sensitive to outstanding Unitymedia Floating Rate Notes.

2017. Christopher Niehaus.

On a number of occasions between 24 January 2016 and 16 May 2016, Niehaus shared client confidential information which he had received during the course of his employment with both a personal acquaintance ("Friend A") and a client of his firm, who was also a friend ("Client A"). Some of the confidential information disclosed related to a client who was a competitor of Client A. The information was disclosed using an instant messaging application ("WhatsApp"), not for the purpose of it being used by the recipients, but because Niehaus wanted to impress them.

Niehaus was a managing director at Jefferies. He was responsible for covering European Industrial groups in the firm's Investment Banking division. As a result of his position, Niehaus had extensive access to client confidential information in relation to forthcoming corporate deals that Jefferies was working on.

Client One

Between 24 and 25 January 2016, Niehaus entered into a WhatsApp conversation with Client A. In that conversation, Niehaus explained that he was working on a deal for a Client ("Client One"). He disclosed the identity of Client One and the fact that this client might be acquiring part of another company. Niehaus and Client A discussed how Niehaus might be able to pay off his mortgage (on the basis that he might receive a bonus from his employer) if the deal was successful.

On 16 May 2016, Niehaus mentioned this deal in a WhatsApp conversation with Friend A. During the conversation, Niehaus stated "Wish I could go exercise but waiting for [Client One] – story of my life…size will increase significantly if I pull off my deal".

Client Two

On 8 April 2016, Niehaus disclosed in a WhatsApp conversation with Friend A that he and others at Jefferies had received a "massive mandate" from a company, Client Two. Friend A asked what the deal was, and Niehaus explained that Client Two needed to raise finance to reduce its debt. He also disclosed the amount Client Two needed to raise and the fees Jefferies would receive for the mandate.

On 22 April 2016, during a social gathering, Niehaus informed Client A that Client Two was to complete a rights issue. Niehaus also referred to this deal in a WhatsApp conversation with Client A on 21 April 2016 and 23 April 2016. During these conversations, Niehaus disclosed the name of Client Two to Client A. Client Two was, at the time, a competitor of Client A.

In May 2016, Client A messaged Niehaus stating he had seen information on the news regarding Client Two. In response, Niehaus stated that Client Two had "c[o]me out with a profit warning" and was "in trouble".

13. SOUNDINGS.

FCA 2008. Harrison.

Harrison was a portfolio manager for a credit fund. On 28 September 2006, Harrison was sounded and given inside information in respect of the imminent refinancing of Rhodia SA ("Rhodia") bonds. Later on the same day, Harrison instructed a colleague to buy up to 10 million Rhodia 10.50% Senior Notes due 2010 ("the 2010 Notes") in the knowledge that there was to be an imminent refinancing by Rhodia which would involve their tendering for those bonds at a premium to the market price. In the event, he purchased 2 million of the 2010 Notes.

The 2010 Notes were purchased by the credit fund at EUR 118.75 for a total consideration of EUR 2,446,166.67. On Monday 2 October 2006, Rhodia announced that it had commenced a cash tender offer and consent solicitation for certain specified bonds including its 2010 Notes, and that there would be a concurrent issue of new floating rate notes to finance this. On 16 October, Rhodia announced the pricing of the tender offer and that the 2010 Notes would be repurchased at the price of EUR 120.952. The credit fund accepted the tender for the bonds on 17 October 2006, resulting in a profit of approximately EUR 44,000.

FCA 2009. Morton and Parry.

Parry was a Vice President of an investment bank and part of the portfolio management team within the bank's Structured Investment Unit ("SCI") which managed the bank's Structured Investment Vehicle, ("SIV"). Morton was a director within and co-head of the SCI.

In 2007 an issuer provided a mandate to an investment bank to contact key investors to ascertain their appetite for a proposed new issue. The bank contacted the SIV and spoke with Morton. During a telephone call, Morton was told that a new issue would probably be announced the following Tuesday. Morton was informed that the investment bank had been given a mandate by the issuer to contact key investors to gauge appetite before the new issue was made public and that he should keep the information to himself and within his firm. Morton informed Parry. Following receipt of this information, Parry sought a bid for $30 million if the issuer's existing FRNs and sold. At the same time, Morton informed the bank that the SIV would have an appetite for $200 million of the new issue.

Later, the bank told Morton that the transaction might happen that day. Morton confirmed the SIV's order as firm for $200 million of the new issue. Minutes after this conversation concluded, Parry sought a bid to sell a further $35 million of the existing FRNs. Parry accepted a bid from a counterparty and sold $35 million of the existing FRNs, which represented the remainder of this holding in the portfolio. The sales of a total of $65 million of the existing FRNs were made at a time when Morton was in possession of the information regarding the potential new issue which was likely to have an impact on the market for the existing FRNs. The new issue was announced later that day and was priced and allocated on the following day. Shortly after the announcement of the new issue, both counterparties who had been sold the existing FRNs made complaints to the SIV stating that they would have bid a lower price had they known of the new issue and requested a reversal of the trades.

14. SPOOFING AND LAYERING.

2015 FCA. Swifttrade.

Swift Trade engaged in a form of manipulative trading activity known as “layering”. This caused a succession of small price movements in a wide range of shares on the London Stock Exchange (“the LSE”) from which Swift Trade was able to profit. The trading activity involved tens of thousands of orders, was repeated on many occasions and was conducted in many different shares.

Layering involves entering relatively large orders on one side of the order book which has the effect of moving the price as the market adjusts to the fact that there has been an apparent shift in the balance of supply and demand. This is then followed by a trade on the opposite side of the order book which takes advantage of, and profits from, the price movement. This is in turn followed by a rapid deletion of the large orders which had been entered in order to cause the movement in price, and by a repetition of this behaviour in reverse on the other side of the order book.

Swift Trade placed the large orders in order to give a false and misleading impression of supply and demand. The large orders were not intended to be executed. They were placed close enough to the touch price (i.e. the best existing bid/offer) to give a false and misleading impression of supply and demand, but far enough away to minimise the risk that they would be executed. They were deleted in seconds in order to further minimise the risk that they would be executed. The trading activity caused many individual share prices to be positioned at an artificial level, from which Swift Trade profited directly.

2011 CFTC. Ecoval Dairy.

The CFTC found that, from September to October 2007, Ecoval attempted to manipulate the daily settlement prices of each of the Chicago Mercantile Exchange ("CME") Non-Fat Dry Milk ("NFDM") monthly commodity futures contracts for December 2007 to July 2008. Ecoval executed various trading strategies on the electronic market trading platform, Globex, with the intent to "push" the prices of the NFDM futures contracts higher so Ecoval could potentially establish a large short position at higher prices.

The NFDM futures market was illiquid and thinly traded. Starting in September 2007, Ecoval formulated a strategy, documented in several emails, to try to "push" NFDM futures contracts higher than existing market forces dictated so Ecoval could potentially establish large short positions in monthly NFDM futures contracts at higher prices. Ecoval attempted to manipulate the NFDM market by using various trading strategies, including executing trades by (1) "lifting" offers and then immediately bidding a higher price than just paid in the trade; (2) placing both bids and offers above prevailing market prices across multiple contract months in order to establish higher price ranges in the market; and (3) consistently placing bids above the opening price or the prevailing price across multiple contracts and bidding, and then quickly cancelling the bids, without the intent to have the bids filled.

15. NEW ISSUES AND M&A SUPPORT.

US 1973. SEC v. Resch-Cassin & Co.

Resch-Cassin & Co were underwriters to equity offering of 150,000 shared of Africa, a Delaware corporation. Under the terms of the offering, all 150,000 shares had to be sold within 60 days. The firm experienced difficulties in completing the distribution and arranged for a group of traders to support the offering by buying stock and trading between themselves. Resch-Cassin & Co, placed orders for its own account through the group and also undertook unauthorised trading on a client account.

US 1969. Crane Co v. Westinghouse Air Brake Co.

Crane Company bid for Westinghouse Air Brake Co. Air Brake declined the offer and agreed to merge with American Standard Inc. Crane then made a tender off for Air Brake shares. Crane alleged that America Standard had obstructed its tender offer by manipulating Air Brake stock prices above Crane's $50 offer price. American Standard undertook a series of transactions in Air Brake on the final day of the tender offer to ramp the share price higher than Crane's $50 offer price.

1988 SEC. SEC v. Zico Investment Holdings.

Zico engaged in a scheme to manipulate the market price of Bancroft Convertible Fund, Inc. immediately prior to Zico's tender offer for majority control of Bancroft.

FSA 1992. SBC.

On 19 December 1994, Trafalgar House announced the terms of an offer for Northern Electric which was made on its behalf by its financial adviser, SBC. Prior to announcement of the offer, Trafalgar House entered into CFDs with SBC which were linked to the share prices of Northern Electric and certain other regional electricity companies. The CFDs did not involve Trafalgar House acquiring Northern Electric shares nor any rights to them but allowed Trafalgar to benefit from movements in the share price of Northern. SBC market makers acquired a stake of 8.2 per cent in the company, more than double the level required for hedging purposes.

2005 – 2008. Porsche/VW.

In 2008 Porsche made $13.5 bn in pre-tax profits. Of that, $11.5 bn was generated by dealings in derivatives.

In 2005 Porsche took a 20% stake in VW. By the middle of 2006 Porsche had acquired 25% of VW. By March 2007 the holding had increased to 31%. The State of Lower Saxony owned 20% and index tracker finds a further 6%. This drove up the W share price – the stock looked over valued. As a result of the financial crisis in 2008 VW became one of the most shorted stocks on the market. By October 2008, almost 12.8% of the shares had been sold short.

FMSB

On 27 October 2008, Porsche announced that it had again raised its stake in Volkswagen -- now to 42.6%. Moreover, it had secretly purchased "cash-settled" CFDs to purchase a further 31.5% of outstanding Volkswagen shares. Combined, Porsche controlled 74.1% of Volkswagen. Moreover, it finally stated it intended to pursue a "domination agreement" -- or 75% of VW shares. This holding in addition to the Lower Saxony and Index Tracker positions meant that the shorts could not cover their positions.

The Volkswagen share price shot up from $200 per share to $500 per share in one day. The following day, the shares peaked at $945 per share. On that day, Volkswagen was technically the most valuable company in the world.

Because the CFDs were cash settled Porsche did not have a disclosure obligation in relation to them – they did not hold the stock. The CFDs were taken out with six banks. The banks paid floating and received fixed. As such, the banks bought VW stock to hedge their floating liabilities under the CFDs. However, as each holding was below disclosure levels they too had no disclosure obligation.