

---

# Outline of Selected SEC Enforcement Actions

November 2014

---

Division of Enforcement  
U.S. Securities and Exchange  
Commission<sup>1</sup>  
Washington, D.C

---

Submitted by:  
David L. Peavler  
Associate Regional Director  
Fort Worth Regional Office

---

Prepared by:  
Sherry A. Peyton  
Research Specialist

Rachel Weitzman  
Intern

---

---

<sup>1</sup> The Securities and Exchange Commission (SEC), as a matter of policy, disclaims responsibility for any private publication or statement by any of its employees. The views expressed herein are those of the authors and do not necessarily reflect the views of the SEC or of the authors' colleagues upon the staff of the SEC. Parts of this outline have been used in other publications.

## Table of Contents

<b>ACTIONS INVOLVING BROKER-DEALERS, INVESTMENT ADVISERS AND INVESTMENT COMPANIES .....</b>	<b>1</b>
In the Matter of Barclays Capital Inc.....	1
In the Matter of Wells Fargo Advisors, LLC.....	1
In the Matter of Latour Trading LLC and Nicolas Niquet.....	2
In the Matter of Linkbrokers Derivatives LLC.....	3
SEC v. Anthony Blumberg .....	4
In the Matter of TL Ventures, Inc. ....	4
In the Matter of Penn Mezzanine Partners Management, L.P. ....	4
In the Matter of Paradigm Capital Management Inc. and Candace Weir .....	5
In the Matter of Wedbush Securities Inc., Jeffrey Bell, and Christina Fillhart .....	6
In the Matter of Thomas Delaney II and Charles Yancey .....	7
In the Matter of Michael Johnson .....	7
In the Matter of Lindsey Wetzig.....	7
In the Matter of Visionary Trading LLC, et al.....	8
In the Matter of Jefferies LLC .....	9
<b>ACTIONS INVOLVING OTHER REGULATED ENTITIES AND SELF-REGULATORY ORGANIZATIONS .....</b>	<b>9</b>
In the Matter of LavaFlow, Inc. ....	9
SEC v. International Stock Transfer Inc. and Cecil Speight.....	10
In the Matter of Liquidnet, Inc.....	11
SEC v. Robert Person and Illinois Stock Transfer Company .....	11
In the Matter of New York Stock Exchange LLC, et al. ....	12
<b>ACTIONS INVOLVING THE FOREIGN CORRUPT PRACTICES ACT ...</b>	<b>13</b>
In the Matter of Smith & Wesson Holding Corporation.....	13
In the Matter of Hewlett-Packard Company .....	14
<b>ACTIONS INVOLVING MUNICIPAL SECURITIES.....</b>	<b>14</b>
In the Matter of the State of Kansas.....	14
In the Matter of Kings Canyon Joint Unified School District .....	15
SEC v. City of Harvey, Illinois and Joseph Letke .....	15
<b>ACTIONS INVOLVING INSIDER TRADING .....</b>	<b>16</b>
SEC v. Frank Tamayo.....	16

SEC v. Saleem Khan, et al. ....	17
<b>ACTIONS INVOLVING MARKET MANIPULATION .....</b>	<b>18</b>
SEC v. Jason Cope, et al. ....	18
In the Matter of Advent Capital Management, LLC.....	19
In the Matter of Antipodean Advisors, LLC.....	19
In the Matter of Blackrock Institutional Trust Company, N.A.....	19
In the Matter of East Side Holdings II, Inc. ....	19
In the Matter of Explorador Capital Management, LLC .....	19
In the Matter of Formula Growth, Ltd. ....	19
In the Matter of Great Point Partners, LLC .....	19
In the Matter of Indaba Capital Management, L.P .....	19
In the Matter of Ironman Capital Management, LLC.....	19
In the Matter of James Parsons .....	19
In the Matter of Midwood Capital Management LLC.....	19
In the Matter of Nob Hill Capital Management, Inc.....	20
In the Matter of RA Capital Management, LLC.....	20
In the Matter of Rockwood Investment Management, Inc. ....	20
In the Matter of Seawolf Capital, LLC .....	20
In the Matter of Solus Alternative Asset Management Lp .....	20
In the Matter of SuttonBrook Capital Management LP.....	20
In the Matter of Troubh Partners LP.....	20
In the Matter of Vinci Partners Investmentos Ltda.....	20
In the Matter of Whitebox Advisors LLC.....	20
SEC v. Mikhail Galas, et al.....	21
SEC v. Christopher Plummer, Lex Cowsert, CytoGenix, Inc. ....	21
In the Matter of Worldwide Capital, Inc. and Jeffrey Lynn .....	22
<b>ACTIONS INVOLVING ISSUER FRAUD, DISCLOSURE, AND</b>	
<b>REPORTING .....</b>	<b>22</b>
In the Matter of Bank of America Corporation .....	22
In the Matter of Saba Software, Inc., Patrick Farrel, and Sajeev Menon .....	23
In the Matter of Babak Yazdani.....	23
In the Matter of Wilmington Trust Corporation .....	24
In the Matter of Ligang Wang .....	25
In the Matter of Paul Arling.....	25

In the Matter of Paul Cronson.....	25
In the Matter of Bradley Forsyth .....	25
In the Matter of Stephen Gans .....	25
In the Matter of Sidney Hooper .....	25
In the Matter of Edgar Levin .....	25
In the Matter of Raul McQuivey.....	25
In the Matter of Donald Nunemaker.....	25
In the Matter of Thomas Nord .....	25
In the Matter of Alan Schnaid.....	25
In the Matter of Justin Tang.....	26
In the Matter of Charles Willis IV .....	26
In the Matter of Stephen Adams .....	26
In the Matter of Thomas Edelman .....	26
In the Matter of Neil Gagnon.....	26
In the Matter of Peter Kellogg .....	26
In the Matter of Gregory Shepard.....	26
In the Matter of Brown Brothers Harriman & Co.....	26
In the Matter of Del Mar Asset Management, LP .....	26
In the Matter of Lazarus Management Company LLC.....	26
In the Matter of P.A.W. Capital Partners, L.P. ....	26
In the Matter of Ridgeback Capital Management LP .....	27
In the Matter of RIMA Senvest Management, LLC .....	27
In the Matter of the Royal Bank of Scotland Group plc .....	27
In the Matter of Sankaty Advisors, LLC .....	27
In the Matter of Security Capital Research & Management Incorporated .....	27
In the Matter of Trinad Management, LLC .....	27
In the Matter of Jones Lan LaSalle Incorporated.....	27
In the Matter of KMG Chemicals, Inc. ....	27
In the Matter of Starwood Hotel & Resorts Worldwide, Inc. ....	27
In the Matter of Tel-Instrument Electronics Corp. ....	27
In the Matter of Universal Electronics Inc.....	27
In the Matter of Willis Lease Finance Corporation .....	28
In the Matter of Bank of America Corporation .....	28
In the Matter of Marc Sherman.....	29

In the Matter of Edward Cummings, CPA.....	29
In the Matter of Morgan Stanley and Co. LLC, Morgan Stanley ABS Capital I Inc., and Morgan Stanley Mortgage Capital Holdings LLC.....	30
In the Matter of Laird Daniels, CPA.....	30
SEC v. CVS Caremark Corp.....	30
<b>ACTIONS INVOLVING SECURITIES OFFERINGS.....</b>	<b>31</b>
SEC v. eAdGear, Inc. et al. ....	31
SEC v. Jonathan Flom.....	32
SEC v. James Schmidt II .....	32
In the Matter of Erik Voorhees .....	32
SEC v. TelexFree et al. ....	33
<b>ACTIONS INVOLVING ACCOUNTANTS AND AUDITORS.....</b>	<b>34</b>
In the Matter of Ernst & Young LLP.....	34

## **ACTIONS INVOLVING BROKER-DEALERS, INVESTMENT ADVISERS AND INVESTMENT COMPANIES**

### **In the Matter of Barclays Capital Inc.**

Exchange Act Release No. 73183 (September 23, 2014)

Advisers Act Release No. 3929 (September 23, 2014)

<http://www.sec.gov/litigation/admin/2014/34-73183.pdf>

Press Release No. 2014-211 (September 23, 2014)

<http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370543020599>

The SEC charged Barclays Capital Inc. (“BCI”) with failing to maintain an adequate internal compliance system after its wealth management business in the U.S. acquired the advisory business of Lehman Brothers in September 2008.

According to the SEC’s order instituting settled administrative proceedings, when BCI attempted to integrate Lehman Brothers’ advisory business into its existing business, it did not take the necessary steps to assure that its infrastructure was enhanced to support the newly acquired advisory business, it failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act, and it failed to make and keep certain required books and records.

According to the SEC’s order, these deficiencies contributed to other violations. Specifically, BCI executed more than 1,500 principal transactions with its advisory client accounts without making the required written disclosures or obtaining client consent. Additionally, for 2,785 advisory client accounts, BCI charged commissions and fees, and earned revenues, that were inconsistent with its disclosure to clients. BCI also violated certain of the custody provisions of the Advisers Act, and it underreported its assets under management on its March 31, 2011 amendment to its Form ADV by \$754 million. BCI’s violations resulted in overcharges and client losses approximating \$472,000, and additional revenue to BCI of more than \$3.1 million. BCI subsequently reimbursed or credited its affected clients approximately \$3.8 million.

The SEC’s order found that BCI violated Sections 204(a), 206(2), 206(3), 206(4), and 207 of the Advisers Act and Rules 204-2, 206(4)-2 and 206(4)-7 thereunder. BCI agreed to a cease-and-desist order, a censure, a \$15 million penalty, and to retain an independent compliance consultant to internally address the violations.

### **In the Matter of Wells Fargo Advisors, LLC**

Exchange Act Release No. 73175 (September 22, 2014)

Advisers Act Release No. 3928 (September 22, 2014)

<http://www.sec.gov/litigation/admin/2014/34-73175.pdf>

Press Release No. 2014-207 (September 22, 2014)

<http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370543012047>

The SEC charged Wells Fargo Advisors LLC, a dually-registered broker-dealer and investment adviser, with failing to adequately establish, maintain, and enforce policies and procedures

reasonably designed to prevent the misuse of material nonpublic information, specifically, the material nonpublic information obtained from its customers and its advisory clients.

According to the SEC's order instituting settled administrative proceedings, in 2010 one of Wells Fargo Advisors' registered representatives misappropriated information from one of his customers about Burger King Holdings, Inc. securities, traded on the basis of that information, and tipped others including several of his Wells Fargo Advisors customers. Although a compliance group at Wells Fargo Advisors reviewed this trading after an acquisition announcement, information about the trading was not shared with senior managers or other compliance groups.

According to the SEC's order, Wells Fargo Advisors' had policies and procedures in place, but they were not reasonably designed. Multiple units within the firm received indications suggesting that the registered representative was misusing material nonpublic information obtained from a customer to trade in Burger King securities but because of a lack of assigned responsibility or coordination, each of these units failed to: (a) recognize the significance of those indications; (b) properly consider them; and (c) elevate those indications within their own group or communicate with other groups responsible for conducting surveillance. Further, Wells Fargo Advisors did not effectively maintain and enforce these inadequate policies and procedures.

According to the SEC's order, during an investigation, SEC staff formally requested that Wells Fargo Advisors produce all documents relating to reviews of trading by the registered representative who traded in Burger King securities. When Wells Fargo Advisors produced documents in response to the staff's request, documents relating to the review of the Burger King trading were not produced. Wells Fargo Advisors unreasonably delayed for six months producing documents relating to the RCG review without any explanation why they were not produced previously. When the documents were produced, the firm failed to produce an accurate record of the review as it existed at the time of the staff's request.

As a result, Wells Fargo Advisors violated Sections 15(g), 17(a), and 17(b) of the Exchange Act and Rule 17a-4(j) thereunder and Sections 204(a) and 204A of the Advisers Act.

**In the Matter of Latour Trading LLC and Nicolas Niquet**

Exchange Act Release No. 73125 (September 17, 2014)

<http://www.sec.gov/litigation/admin/2014/34-73125.pdf>

Press Release No. 2014-199 (September 17, 2014)

<http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370542972403>

The SEC charged Latour Trading LLC, a New York-based high frequency trading firm, and Nicolas Niquet, the firm's former CEO, with violating the net capital rule that requires all broker-dealers to maintain minimum levels of net liquid assets or net capital.

According to the SEC's order instituting settled administrative proceedings, from at least January 2010 through at least December 2011, Latour consistently conducted a securities business while miscalculating the amount of net capital it had, thereby failing to maintain the required minimum net capital by millions of dollars. The firm operated without maintaining its required minimum

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Outline of Selected SEC Enforcement Actions

Also available as part of the eCourse

[Enforcement Agency Updates and Current Priorities](#)

First appeared as part of the conference materials for the  
2015 Government Enforcement Institute session  
"Securities and Exchange Commission"