

# Regulatory & Compliance Alert

A PUBLICATION OF NASD REGULATION, INC.

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## *Anti-Money Laundering*

On October 26, 2001, in response to the events of September 11, 2001, President Bush signed into law the PATRIOT Act. Title III of the PATRIOT Act, referred to as the Money Laundering Act, strengthens the anti-money laundering provisions put into place earlier by the Bank Secrecy Act, particularly with respect to crimes by foreign nationals and foreign financial institutions. The Money Laundering Act created a framework of general requirements, the details of which were left to Treasury to develop through regulations. Treasury has begun to propose new anti-money laundering regulations, as required under the Act, and it will continue to do so throughout the year.

Several provisions of the Money Laundering Act are relevant to National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) members. (Visit the NASD Regulation Anti-Money Laundering Web Page: <http://www.nasdr.com/money.asp>.) Among other things, the Money Laundering Act requires broker/dealers to report suspicious activities and follow new know-your-customer procedures. It also prohibits broker/dealers from maintaining "correspondent accounts" (as yet to be defined) for foreign shell banks.<sup>1</sup>

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<sup>1</sup> Broker/dealers will be required to comply with these new obligations in addition to continuing their compliance with existing Bank Secrecy Act reporting and recordkeeping requirements.

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NASD REGULATION, INC.

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Of immediate importance to broker/dealers is Section 352 of the Money Laundering Act, which requires all broker/dealers to establish by April 24, 2002, anti-money laundering compliance programs that satisfy, at a minimum, the following criteria: (1) develop internal policies, procedures, and controls to comply with the other provisions of the Bank Secrecy Act (as amended by the Money Laundering Act); (2) designate a compliance officer with responsibility for the anti-money laundering program; (3) establish an ongoing employee training program; and (4) provide for an independent audit function to test the effectiveness of the anti-money laundering compliance program. The Money Laundering Act directs Treasury, by April 24, 2002, to issue regulations that address the applicability of the statutory requirements to different types of financial institutions and allows Treasury to prescribe additional minimum standards for the program.

The NASD has filed a rule proposal with the Securities and Exchange Commission (SEC) to establish NASD Rule 3011, which substantially mirrors the language of Section 352 of the Money Laundering Act. NASD Rule 3011 would require firms to develop and implement, on or before April 24, 2002, a written anti-money laundering compliance program designed to achieve and monitor the member's compliance with the requirements of the Money Laundering Act and the implementing regulations promulgated thereunder by the Treasury Department. A member of the firm's senior management would be required to approve, in writing, the firm's anti-money laundering compliance program which, at a minimum, must

(1) establish and implement policies, procedures, and internal controls reasonably designed to detect and cause the reporting of suspicious transactions, as required under 31 USC § 5318(g) and the implementing regulations thereunder; (2) establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations promulgated thereunder; (3) provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party; (4) designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program; and (5) provide ongoing training for appropriate personnel.

Section 352 of the Money Laundering Act is self-executing. Therefore, regardless of whether the SEC approves proposed NASD Rule 3011, all firms must have anti-money laundering compliance programs in place by April 24, 2002. Because the Money Laundering Act requires firms to establish their anti-money laundering compliance programs before Treasury's regulations have become final, firms will have to supplement or amend their compliance programs to satisfy the new regulations as they are issued throughout the year.

For instance, the Money Laundering Act requires the Treasury to promulgate regulations requiring broker/dealers to file suspicious activity reports (or SARs), which identify and describe suspicious transactions. In 1996, Treasury's Financial Crimes Enforcement Network (FinCEN)

issued regulations requiring banks to file SARs with FinCEN. Currently, broker/dealers that are affiliates or subsidiaries of banks or bank holding companies are also required to file SARs. Other broker/dealers have been encouraged, but not required, to file SARs. The Money Laundering Act makes SAR filings mandatory for all broker/dealers. Treasury released proposed broker/dealer SAR regulations in December 2001. Final regulations will be published by July 1, 2002. Broker/dealers will be required to file SARs beginning 180 days after Treasury publishes its final regulations.

In addition, the Money Laundering Act prohibits the maintenance of "correspondent accounts" for foreign shell banks, and it directed Treasury to promulgate regulations delineating the steps necessary to comply with this provision. In late December 2001, Treasury released proposed regulations regarding the definition of "correspondent accounts" for broker/dealers and containing a model certification form that firms

could use to certify that their "correspondent account" holders were not foreign shell banks. Treasury is currently considering the comments it received on these proposed regulations, but the prohibition on maintaining these accounts is currently effective.

NASD Regulation will keep members informed as Treasury issues new regulations so that members can adapt their anti-money laundering compliance program to satisfy additions and changes in the regulatory regime. NASD Regulation will also provide members with guidance on how to best meet their regulatory responsibilities in this area.

*For more information about this topic, please visit the NASD Regulation Anti-Money Laundering Web Page at <http://www.nasdr.com/money.asp>, and continue to return to this Page for updates. Also, direct any questions you have about Anti-Money Laundering to Nancy Libin, Office of General Counsel, NASD Regulation, at (202) 728-8835.*

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## *Web CRD Release 4.0 Implemented*

The first Web CRD<sup>SM</sup> software release of 2002, Release 4.0, was implemented on March 18. The Release incorporated into the Web CRD System, the third phase of the IARD Program, the electronic registration of investment adviser representatives for both broker/dealer-investment adviser (joint) firms and investment adviser-only firms. In conjunction with this Release, revised versions of the Uniform Forms U-4 and U-5 (revision date 3/2002) were also implemented.

The forms were revised not only to incorporate the new investment adviser representative registration position, "RA", but also to align them more with their electronic counterparts in CRD. Associated with the registration of investment adviser representatives are three new system processing fees for all investment adviser representatives that firms register electronically. **These fees will be non-refundable.**

### Initial Set-up Fee: \$45

- ◆ This one-time fee is charged when your firm transitions an existing RA onto the system to create an electronic record of his/her registration.
- ◆ For a new registrant, this one-time fee is charged when your firm electronically files a U-4 for the new RA.

### Annual Fee: \$45

- ◆ This fee is charged once a year during the IARD Renewals Program for each RA with your firm and covers all electronic filing activity for the next year.

### Transfer Fee: \$45

- ◆ This fee is charged when an RA changes his/her registration from one firm to another, electronically via the system.

### Uniform Forms

The “look and feel” of the Forms U-4 and U-5 has changed. The printed forms are virtually identical in appearance to the screens that are presented in Web CRD. The Forms were revised in order to:

- ◆ Accommodate the electronic submission of investment adviser representative (RA registration position) filings.
- ◆ Establish procedures that enable broker/dealer firms and investment adviser firms employing dually registered persons (*i.e.*, persons who are employed by more than one unaffiliated broker/dealer or investment adviser firm) to concur with and adopt

information contained in forms filed on such persons.

- ◆ Clarify the filing instructions.
- ◆ Provide separate paper filing instructions for certain investment adviser representative filers and other state-only filers that do not use the CRD or IARD systems.
- ◆ Clarify certain items that have been confusing to CRD users.
- ◆ Make certain formatting and technical changes to the forms that complete the transition from a paper-based filing model to an electronic-filing model.
- ◆ Update the Form U-4 to add examination and registration categories not previously included.

Detailed information regarding each of the changes to the Forms U-4 and U-5 can be found in *NASD Notice to Members 02-20*. Copies of the revised forms can be viewed and/or printed from the NASDR Web Site, [http://clt-apnt-webd1/corpcomm/NASDR\\_NewSite/3420d\\_adopted.asp](http://clt-apnt-webd1/corpcomm/NASDR_NewSite/3420d_adopted.asp), or from the Web CRD Site Map >CRD Main>Blank Forms.

### Investment Adviser Representative Registration

The 4.0 Release enables Investment Adviser firms to electronically register their investment adviser representatives (RAs) through Web CRD using the revised (03/2002) Form U-4. IA firms will be able to register RAs electronically as directed/mandated by state(s) or on a voluntary basis.

### Transition Filing

Before an investment adviser firm files its first electronic Form U-4 for an existing RA, in order to populate registration information for investment adviser representatives without additional fees being charged which the firm has already paid to the state, the firm must update Web CRD to reflect the states with which the RA is currently registered. This process is called "Transition Filing." The Transition Filing will:

- ◆ Identify states where the RA is currently registered.
- ◆ Provide basic employment information about the RA.
- ◆ Create a CRD Number if none exists for the individual.

Transition Filing only applies to existing investment adviser representatives (RAs) who are already registered or licensed in states through paper filings. Once a Transition Filing has been submitted, the firm can submit an electronic Form U-4 Amendment Filing for the RA. As a guidance, a Form U-4 Amendment should be submitted for the individual within 30 days from the date of the Transition Filing if the individual doesn't have a "current" U-4 filing in CRD. Additional information regarding "Transitioning" can be found in the *CRD/PD Bulletin* at [http://www.nasdr.com/3410\\_news\\_march02.asp](http://www.nasdr.com/3410_news_march02.asp) and the *IARD Bulletin*, on [www.iard.com](http://www.iard.com).

### Professional Designations

Most states that register investment adviser representatives (RA registration applicants) will consider waiving the qualifying examination

if the applicant holds one or more of five Professional Designations and checks the appropriate Professional Designation box when submitting his/her U-4 Filing. The Web CRD System will verify whether an investment adviser representative holds a valid Professional Designation when a filing is submitted for the RA with one of the five Professional Designation boxes checked in Section 8, "Professional Designations," of the U-4 Filing:

<b>CFP</b>	Certified Financial Planner Awarded by the Certified Financial Planner Board of Standards, Inc.
<b>ChFC</b>	Chartered Financial Consultant Awarded by the American College, Bryn Mawr, Pennsylvania
<b>PFS*</b>	Personal Financial Specialist Awarded by the American Institute of Certified Public Accountants (AICPA)
<b>CFA</b>	Chartered Financial Analyst Awarded by the Association for Investment Management Research
<b>CIC</b>	Chartered Investment Counselor Awarded by the Investment Counsel Association of America, Inc.

Firms that have individuals holding the PFS or CFA Professional Designation who would like to use it for qualifying purposes should first (before submitting the U-4 Filing) contact the AICPA or AMIR with the individuals' CRD Numbers or Social Security Numbers and request that the individuals' Professional Designation data be forwarded electronically to the NASD.

- ◆ The firm will know that Web CRD has received the data when the filing (with the PFS or CFA Professional Designation box checked) passes the Completeness Check and is successfully submitted.

More details regarding Professional Designations and the filing process are in the March 2002 *CRD/PD Bulletin* at [http://www.nasdr.com/3410\\_news\\_march02.asp#pro\\_ra\\_registration](http://www.nasdr.com/3410_news_march02.asp#pro_ra_registration).

### **New Concurrence Filing Type**

In conjunction with the electronic registration of investment adviser representatives, Release 4.0 implemented a new filing type in Web CRD, the Concurrence Filing. A Concurrence Filing allows a firm to concur with and adopt information submitted by another firm on an individual also registered with the filing firm. As background, Article V, Section 2 (c) of the NASD By-Laws requires registered individuals to keep the Form U-4 current at all times. Therefore, when a dually registered individual, *i.e.*, an individual employed by more than one unaffiliated broker/dealer and/or investment adviser, submits a U-4 Filing with one firm, the other firm will have the opportunity to complete a Concurrence Filing to agree to and adopt the information submitted. This new filing type satisfies the dually registered individual's obligation to keep his/her Form U-4 current with each firm. It facilitates "concurrence" with a U-4 Filing made by another firm (IA or BD) on behalf of an individual that is also registered with that other firm. The Concurrence Filing consists of a "read only" Form U-4, meaning no data can be changed. See *NASD Notice to*

*Members 02-20* or the related *CRD/PD Bulletin* article or [http://www.nasdr.com/3410\\_news\\_march02.asp#new\\_filing](http://www.nasdr.com/3410_news_march02.asp#new_filing) for additional information.

### **New Material Difference Flag**

There is a new "Material Difference" Flag in Web CRD that relates directly to disclosure and applies to individuals who are registered with more than one unaffiliated broker/dealer and/or investment adviser firm (*e.g.*, BD/BD, BD/IA or IA/IA). The Material Difference Flag was developed due to the increased population of "dually" registered individuals anticipated to be in the system due to investment adviser representative registration. The flag indicates a difference exists in U-4 Disclosure Reporting Page (DRP) details for the same disclosure event. In the event that multiple firms associated with any particular individual submit DRPs reporting different information about the same disclosure event [the difference of one word will set the flag], the NASD, during a manual review process, will flag the affected record on the CRD System. This will identify on the system that a disclosure difference exists and will immediately put regulators and involved firms on notice that a difference exists. Firms are obligated to review the DRPs in question, identify the differences in the DRP details that triggered the flag, and contact the individual and/or other firms(s) to determine the basis for the new DRP and how the disclosure difference will be resolved. You can find out more about the Material Difference Flag in the *CRD/PD Bulletin* at [http://www.nasdr.com/3410\\_news\\_march02.asp#material\\_difference](http://www.nasdr.com/3410_news_march02.asp#material_difference).

## **User Support**

In order to assist both seasoned and new Web CRD users with the system and the enhancements and changes with Release 4.0, and to aid those users who will be using Web CRD for the first time to electronically register investment adviser representatives (RAs), the User Support tools on our Web Sites have been enhanced and expanded. These support documents and job aides have a “system” focus, providing instructions and helpful tips. With Release 4.0, several topics in Help have been redesigned and rewritten to target the topics most affected by the system revisions. The new Help Text topics provide the user with an easier way to identify sections of interest and access these sections more quickly. Navigation through the sections of Help has been made easier due to the reorganized Table of Contents and hyperlinks added throughout to provide the user with all necessary information. There are now 17 Navigation Guides available for Web CRD, the system used for the electronic registration of registered representatives (RRs) and investment adviser representatives (RAs) via the Forms U-4 and U-5. The Navigation Guides are functional job aides and contain step-by-step instructions. They can be viewed and/or printed at [http://www.nasdr.com/3400\\_nav\\_guides.asp](http://www.nasdr.com/3400_nav_guides.asp).

In addition, for the first time, NASD has placed a Broker/Dealer Firm User’s Manual, a Web CRD user’s manual, on the CRD Page of the NASD Regulation Web Site, [http://www.nasdr.com/webcrd\\_manual.asp](http://www.nasdr.com/webcrd_manual.asp). The manual is a detailed, instructional user’s guide and includes the “how to’s” of CRD, including the system’s new RA

component. The IARD Firm User’s Manual on the IARD Web Site, [www.iard.com](http://www.iard.com), has been expanded and updated for Release 4.0

Both NASD Regulation’s Web Site, [www.nasdr.com](http://www.nasdr.com), and the IARD Web Site, [www.iard.com](http://www.iard.com), contain State Directories that include contact information specific for either broker/dealers or investment advisers. State Fee Schedules, currently for either broker/dealer firm and representative registration or IA firm and representative registration, are also located on each Site, respectively.

Release Notes, a matrix that provides an end-user explanation of all the Web CRD Release 4.0 changes, are located on the NASD Regulation Web Site, at [http://www.nasdr.com/pdf-text/webcrd\\_rel4\\_matrix.pdf](http://www.nasdr.com/pdf-text/webcrd_rel4_matrix.pdf), or on the Web CRD Site Map>CRD Main>User Info. Under the heading “Changes,” you will find the different areas or applications of Web CRD affected, as well as the changes and enhancements implemented with the Release. The user groups impacted by the changes made to Web CRD with the Release are listed to the right, under the heading User Community.

For more information regarding the Release and the system, form, and process changes that were implemented in conjunction with it, see the March 2002 *CRD/PD Bulletin*, [http://www.nasdr.com/3410\\_news\\_march02.asp](http://www.nasdr.com/3410_news_march02.asp).

*Questions about the new Release may be directed to the Gateway Call Center at (301) 869-6699.*



## *NASD Regulation Reiterates ACT Transaction Reporting Obligations Of Order Entry Firms*

NASD Regulation is reminding member firms, particularly those that are non-reporting firms (commonly, Order Entry Firms), of their trade reporting obligations pursuant to NASD Marketplace Rule 6130, which governs the use of the Automated Confirmation Transaction Service (ACT). Recently, NASD Regulation has identified situations where such firms have failed to comply with this ACT rule. In an effort to ensure compliance with this regulatory obligation, this article describes the manner in which a member, using the NWII, can comply with NASD Marketplace Rule 6130(b).<sup>1</sup>

NASD Marketplace Rule 6130(b) provides that the non-reporting firm may “utilize the Browse function in ACT to accept or decline trades within twenty (20) minutes after execution....” Compliance with this obligation by the non-reporting firm, which is commonly an Order Entry Firm, using the NWII is accomplished in one of the following ways:

- ◆ Accept market maker trade entries on the ACT Trade Scan (also known as the Browse feature) within 20 minutes after execution; or
- ◆ Decline incorrect market maker trade entries on the ACT Trade Scan function within 20 minutes after execution (where appropriate).

In addition, non-reporting firms are reminded, to the extent they use the ACT Trade Scan functionality to accept the entry of a reporting firm, of the requirement to correctly report short sales to ACT. See *NASD Notice to Members 94-83*, question 15 (October 1994). Such firms must use the ‘**AccSS**’ or ‘**AccExSS**’ buttons on the ACT Trade Scan screen when accepting transactions, which, from the perspective of the non-reporting firm, are short sales.

For further information on the use of ACT, please refer to the *ACT User Guide*, which is available online at [www.nasdaqtrader.com](http://www.nasdaqtrader.com).

*Questions regarding the operation of ACT may be directed to Nasdaq Market Operations at (203) 378-0166. Legal questions concerning the ACT rules may be directed to Nasdaq Office of General Counsel at (202) 728-8088.*

<sup>1</sup> This article does not describe the other methods that order entry firms can utilize to compare transactions in ACT (e.g., the Automated Give-Up Agreement, or AGU).

## *NASD Regulation Cautions Firms For Deficient Variable Annuity Communications*

NASD Regulation recently concluded a review of NASD member firms' internal use only communications about variable annuities. The communications discussed annuities that provide for periodic investment into the variable subaccounts from a fixed account (dollar cost averaging programs) or offer bonus credits on the purchase price (bonus variable annuities). While firms must file with NASD Regulation advertisements and sales literature regarding variable annuities, internal use only communications such as those included in the review are not required to be filed pursuant to NASD Conduct Rule 2210.

Nevertheless, such communications must comply with all other aspects of the rule. The review revealed that firms had used communications that failed to provide sufficient disclosure with respect to these products. All of the firms cooperated with the staff in correcting the deficiencies found in their communications and ensuring that future deficiencies would be avoided. The staff issued letters of caution to the firms involved.

### ***Dollar Cost Averaging Presentations***

The dollar cost averaging programs in question require customers to invest in the fixed account of a variable annuity, then transfer all funds into accounts subject to market risk in equal installments over a relatively short time period such as six months or one year. The review revealed that members' communications had

overemphasized high annual effective yields of the fixed accounts as an inducement to invest in the variable annuities. Because all of the money had to be transferred out of the fixed account in equal installments over a relatively short time period, the annual effective yield was paid on a declining balance. Thus, the actual return on dollars initially invested in the fixed account was much lower than the advertised annual effective yield. By overemphasizing the annual effective yield, the communications were misleading as to the value of the return that the fixed account offered. In addition, the emphasis on the high rates available for a limited time in the fixed account created confusion as to whether the product was a fixed or variable annuity.

While NASD Regulation does not object to discussions of dollar cost averaging programs in communications about variable annuities, such presentations must describe fairly how the programs operate, including the requirement that all monies be transferred out of the fixed account within a pre-set timeframe. In addition, if any type of yield or return is included, the communication must also disclose the actual return on investment the customer can expect to receive from the fixed account net of applicable fees and charges. The annual effective yield may be included provided it is not overemphasized and that it is accompanied by clear disclosure that it is a rate used to calculate the return on investment but does not reflect funds the customer will receive.

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### ***Bonus Credit Concerns***

Some of the communications prominently discussed the bonus credit features of variable annuities, yet failed to prominently explain that fees and expenses for such contracts may be higher, and the surrender periods may be longer, than contracts that do not provide the bonus. Such an explanation is necessary to provide a sound basis for evaluating the facts with respect to the product as required by NASD Conduct Rule 2210.

### ***NASD Regulation Guidance***

Over the past two years NASD Regulation has provided guidance to NASD member firms about how to properly communicate about dollar cost averaging programs and bonus annuities through comment letters on member filings, presentations at industry conferences, and articles in the *NASD Regulatory & Compliance Alert* (see “Advertising Of Bonus Credit Variable Annuities,” Summer 2000, and “Ask the Analyst,” Summer 2001).

*The Advertising Regulation staff is available to answer questions regarding members’ communications at (240) 386-4500.*

## *Fund Level Expenses In Variable Life Hypothetical Illustrations*

NASD Regulation has determined to permit NASD member firms to reflect weighted averages of fund level expenses in variable life insurance hypothetical illustrations used with prospectuses. The illustrations depict how the expenses of the funds that underlie a given policy could affect its cash value and death benefit over time. The illustrations generally use an assumed rate of return over a long-term period such as 30 years.<sup>1</sup>

Historically, NASDR required that firms reflect an arithmetic average of the fund level expenses. Members have requested the ability to use additional illustrations that reflect a weighted average of expenses in order to give customers a clearer understanding of the relationship between their choice of underlying funds and their relative costs. NASDR has determined to permit these types of illustrations both in

presentations distributed to more than one customer and in personalized illustrations prepared for individuals, provided the following conditions are met:

- ◆ The illustration must be preceded or accompanied by the policy prospectus;
- ◆ Illustrations used with more than one customer must be accompanied by a general illustration that reflects the arithmetic average of underlying fund expenses. The arithmetic average illustration may be in a separate document or the accompanying prospectus; and,
- ◆ The weighted average illustration must identify the underlying fund options being used, each fund's expenses and the amount of premium allocated to each fund.

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<sup>1</sup> Pursuant to IM 2210-2, "Communications with the Public About Variable Life Insurance and Variable Annuities," members may use assumed rates of return of up to 12% provided that a 0% illustration is also included. Illustrations must depict the effect of the maximum (guaranteed) mortality and expense risk charges. The presentation also must explain prominently that the illustration is hypothetical, that it is intended to show how the performance of the underlying investment accounts could affect policy cash value and death benefit, and that it may not be used to project or predict investment results.

## Reminder—Suitability Of Variable Annuity Sales

Variable annuities, already a complex product, are becoming more complicated because of many new product enhancements. In light of this trend, NASD Regulation reminds members of their suitability obligations under Conduct Rule 2310 when recommending variable annuities.<sup>1</sup>

As an initial matter, it is imperative that members and their associated persons thoroughly understand all of the investment products that they recommend to customers. That is, members cannot determine whether a recommendation is suitable for a particular customer unless they are knowledgeable about the investment product at issue.

Members also should carefully consider the impact that a proposed transaction might have on an investor's financial status before recommending the transaction. In this regard, the recent stock market drop has had a negative effect on many variable annuity contract values

and variable annuity death benefits. A recommendation that an investor replace his or her existing variable annuity contract with another contract could result in the new variable contract having a smaller value and death benefit than the original contract.

In addition, members must keep in mind that the suitability rule applies to any recommendation to sell a variable annuity regardless of the use of the proceeds, including situations where the member recommends using the proceeds to purchase an unregistered product such as an equity-indexed annuity. Any recommendation to sell the variable annuity must be based upon the financial situation, objectives and needs of the particular investor.

*Questions about this article may be directed to the Investment Companies Regulation Department at (240) 386-4535.*

<sup>1</sup> NASD Regulation has previously published materials regarding variable annuity sales activities, including the supervision of variable annuity sales (*Notice to Members 99-35*), the advertising of bonus variable annuities (Summer 2000 *Regulatory & Compliance Alert*), and an *Investor Alert* regarding variable annuity exchanges. In 2001, NASD Regulation announced several enforcement actions against member firms and individuals involving variable annuity sales.

## “Investor Center” Added To NASD Regulation Web Site

The NASD Regulation Web Site has recently updated and reorganized its Investor Web Pages in order to provide investors with up-to-date guidance and tools to help them in their investing endeavors. NASD members are encouraged to link to the NASD Investor Center at <http://investors.nasdr.com> and to share information from the Site with your customers.

This section of the Site includes a number of items.

**Investor Alerts** provide educational information about certain trends we are seeing in the industry to help investors avoid investing problems. Currently published Alerts focus on topics such as stretch IRAs, variable annuities, and promissory notes.  
<http://www.nasdr.com/alerts3.asp>

**New Financial Products** outline new products available in the industry, such as 529 College Savings Plans and Equity-Indexed Annuities, and provide information for investors to educate themselves before delving into such products.  
[http://www.nasdr.com/new\\_products.asp](http://www.nasdr.com/new_products.asp)

**Investor Protection & Investing Resources** are Web Pages that include a whole host of information to protect and educate investors. From a glossary, to a section devoted to “Parents, Teachers, & Kids,” to guidance on how to invest safely—these Web Pages provide guidance to help your customers.  
[http://www.nasdr.com/investor\\_protection.asp](http://www.nasdr.com/investor_protection.asp)

**Tools You Can Use** includes interactive resources, such as financial calculators, and other resources to help in financial planning.  
[http://www.nasdr.com/investor\\_tools.asp](http://www.nasdr.com/investor_tools.asp)

**About Trading** provides information on online trading, day trading, margin, and the account transfer process.  
[http://www.nasdr.com/about\\_trading.asp](http://www.nasdr.com/about_trading.asp)

**Get Help** includes information and instructions for investors and others about how to file a customer complaint, as well as information about the NASD's dispute resolution forum.  
[http://www.nasdr.com/investor\\_help.asp](http://www.nasdr.com/investor_help.asp)

**Spanish Language Brochures (Folleto en Español)** include a series of pamphlets translated into Spanish on topics such as investing strategies, dispute resolution, and others. [http://www.nasdr.com/brochure\\_spanish.asp](http://www.nasdr.com/brochure_spanish.asp) There is also an online version in English. [http://www.nasdr.com/brochure\\_series.asp](http://www.nasdr.com/brochure_series.asp)

**Investor Tips** appear on the Investor Center Home Page and provide snippets of information about a question or issue that may be of importance of investors.

*Again, we encourage you to visit our Web Site. Some of the information found on the Investor Center Web Pages is also available in print. If you have any questions about the content found on the NASD Investor Center Web Pages, contact John Gannon, NASD Regulation Investor Education, at (202) 728-2842.*

## Testing Update

### Excellence In Service Award For Testing Centers

NASD Regulation established an Excellence In Service Award Program for those centers that consistently achieve excellence in the areas of customer service and performance.

The awards are made in April, June, October, and January for the previous calendar quarter.

The Excellence In Service Award winners for fourth quarter of 2001 are:

Note: A number besides the city name represents the number of consecutive quarter awards.

Dothan AL	Anchorage AK	Little Rock AR
Pueblo CO	Davie FL	Temple Terrace FL
Baton Rouge LA	Livonia MI	Portage MI
Rochester MN	Billings MT	Columbus NE
5 Albuquerque NM	4 Melville NY	Wappingers Falls NY
Cincinnati OH	Columbus OH	4 Cuyahoga Falls OH
Niles OH	4 Strongsville OH	7 Oklahoma City OK
Allentown PA	8 Pittsburgh (N. Hills) PA	Pittsburgh PA
Charleston SC	Columbia SC	Clarksville TN
12 Memphis TN	Puyallup WA	12 Fox Point WI
New Berlin WI		

### Prometric Appointment Scheduling During June And July 2002

Due to an anticipated increase in volume, demand for appointments at Prometric testing centers is expected to peak during the months of June and July 2002. Prometric is taking a proactive approach to ensure that centers have

the capacity to handle the increased volume of business. However, NASD Regulation encourages candidates who will require Continuing Education and testing appointments during the June/July timeframe to schedule appointments as far in advance as possible.

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***Prometric Technology Center  
Re-Opens In Fort Wayne, IN***

A new Prometric testing center is now open in Fort Wayne, IN. The center is located at:

*2101 East Coliseum Boulevard*

*Testing Services, Kettler Hall – Room 232B*

*Fort Wayne, IN 46805*

*(260) 481-4153*

***Test Center Locations – Domestic  
And International***

A current list of all test centers locations, both domestic and international, is published on the NASD Regulation Web Site. Access our Web Site at *www.nasdr.com* and select 'Test Center Locations' from the Home Page to get up-to-date location information.

*Questions about this article may be directed to Linda Christensen, Member Regulation, NASD Regulation, at (610) 627-0377*

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## Certification Testing & Continuing Education Delivery Location List

Current as of April 2002

### Alabama

Birmingham	205-871-7444
Decatur	205-350-8324
Dothan	334-677-6334
Mobile	334-344-6284
Montgomery	334-262-0043

### Alaska

Anchorage	907-276-6007
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### Arizona

Goodyear	623-932-7800
Tucson	520-531-0431

### Arkansas

Fort Smith	501-484-0702
Little Rock	501-663-8280

### California

Anaheim	714-637-7894
Atascadero	805-462-8308
Brea	714-255-1141
Culver City	310-337-6696
Diamond Bar	909-861-1146
Gardena	310-329-1844
Glendale	818-545-7383
Irvine	949-552-0563
La Mesa	619-668-2121
Palm Desert	760-836-1510
Piedmont	510-428-4123
Rancho Cucamonga	909-944-9763
Redlands	909-792-2145
Riverside	909-353-8600
Sacramento (Fair Oaks)	916-961-7323
San Diego	858-526-0858
San Francisco (California St)	415-362-1311
San Francisco (Oyster Point)	800-578-6273
San Jose	408-257-7699
Santa Rosa	707-528-6000

### Canada

Calgary	403-777-1365
Etobicoke ON	416-236-2629, Ext. 221
Halifax	902-422-7323
Montreal	514-876-8818
Richmond BC	604-231-1966
Saskatoon SK	306-978-7323
Whitby	905-404-1818
Windsor	519-974-8747
Winnipeg	204-988-5050

### Colorado

Boulder	303-449-1700
Colorado Springs	719-593-1272
Denver	303-692-8745
Littleton	303-972-7276
Pueblo	719-545-0838

### Connecticut

Glastonbury	860-633-7236
Hamden	203-287-9677
Norwalk	203-847-0031

### Delaware

Dover	302-741-0412
Wilmington	302-998-3817

### District of Columbia

Washington	202-955-5887
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### Florida

Davie	954-423-0782
Ft. Myers	941-275-1130
Gainesville	352-371-6891
Hollywood	954-967-0443
Jacksonville	904-739-3000
Maitland/Orlando	407-875-8118
Sarasota	941-923-9399
Tallahassee	850-386-8707
Tampa	813-289-1246
Temple Terrace (Tampa)	813-989-9988
Winter Park	407-671-2332

**Georgia**

Atlanta (Tucker)	770-493-9813
Augusta	706-868-1888
Jonesboro	770-478-5356
Macon	912-474-5909
Marietta	770-980-1117
Savannah	912-354-2660
Valdosta	912-245-1069

**Idaho**

Boise	208-322-3555
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**Illinois**

Carbondale	618-529-4664
Carpentersville	847-836-2031
Chicago (S. Wabash)	312-663-5632
Homewood	708-798-0238
Northbrook	847-559-2461
Peoria	309-682-0825
Springfield	217-546-0381
Westchester	708-947-2800

**Indiana**

Evansville	812-479-6855
Fort Wayne	260-481-4153
Indianapolis (E. 86th St.)	317-257-7546
Indianapolis (Girl's School Rd)	317-486-4541
Lafayette	765-447-0626
Merrillville	219-736-1113
Mishawaka	219-254-1055
Terre Haute	812-232-6348

**Iowa**

Bettendorf	319-359-1001
Des Moines	515-223-6650

**Kansas**

Topeka	785-272-7500
Wichita	316-651-5350

**Kentucky**

Lexington	859-268-3338
Louisville	502-423-0340

**Louisiana**

Baton Rouge	225-293-8489
Bossier City	318-742-7349
New Orleans	504-245-2600

**Maine**

Orono	207-581-1708
Portland	207-775-5812

**Maryland**

Baltimore	410-843-6401
Bethesda	301-718-9893
Columbia	410-740-8137
Lanham	301-552-3400
Pikesville	410-486-9045
Salisbury	410-341-4100

**Massachusetts**

Boston	617-345-8980
Brookline	617-264-4152
E. Longmeadow	413-525-4901
Lexington	781-861-0723
Waltham	781-890-0466
Worcester	508-853-7250

**Michigan**

Ann Arbor	734-477-6970
Grand Rapids	616-957-0368
Lansing	517-372-7413
Livonia	734-462-2750
Portage	616-321-8351
Troy	248-643-7323
Utica	810-739-0270

**Minnesota**

Duluth	218-723-1494
Edina	952-820-5010
Rochester	507-292-9270
St. Cloud	320-529-4830
Woodbury	651-702-6791

**Mississippi**

Jackson	601-366-6400
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**Missouri**

Ballwin	314-394-7742
Jefferson City	573-761-7317
Lee's Summit	816-525-5445
Springfield	417-882-0740
St. Joseph	816-671-9900
St. Louis	314-993-9092

**Montana**

Billings	406-656-4646
Helena	406-443-9205

**Nebraska**

Columbus	402-564-2862
Lincoln	402-465-8800
Omaha	402-334-9449

**Nevada**

Las Vegas 702-795-7323  
Reno 702-829-2700

**New Hampshire**

Portsmouth 603-433-6800

**New Jersey**

Deptford 856-384-4744  
East Brunswick 732-390-4040  
Fairlawn 201-475-1670  
Hamilton Township 609-631-9794  
Toms River 732-349-4609  
Union 908-964-2862

**New Mexico**

Albuquerque 505-296-0609

**New York**

Albany 518-438-6762  
Amherst/Buffalo 716-565-0570  
East Syracuse 315-433-9038  
Garden City 516-746-7367  
Ithaca 607-277-4821  
Manhasset 516-869-1238  
Melville 516-845-9063  
NYC Manhattan Area 212-760-1137  
NYC Midtown Area 800-578-6273  
NYC Penn Plaza (15th Fl) 800-578-6273  
NYC Penn Plaza (17th Fl) 800-578-6273  
NYC Wall Street Area (Liberty Plaza) 646-625-6050  
Rego Park 718-997-6356  
Rochester 716-385-4810  
Staten Island 718-980-3079  
Vestal 607-798-1715  
Wappingers Falls 845-298-8378  
Watertown 315-788-2588  
White Plains 914-289-0437

**North Carolina**

Asheville 828-253-4224  
Charlotte 704-364-7758  
Greensboro 336-288-1311  
Greenville 252-756-0342  
Raleigh 919-846-1975  
Wilmington 910-392-0891

**North Dakota**

Bismarck 701-224-1171  
Fargo 701-293-1234

**Ohio**

Cincinnati 513-671-7030  
Columbus 614-451-4131  
Cuyahoga Falls (Akron) 330-922-5587  
Dayton 937-435-8417  
Hilliard 614-529-4232  
Lima 419-331-7323  
Mentor 440-255-0055  
Niles 330-652-1886  
Reynoldsburg 614-864-4090  
Strongsville 440-238-0530

**Oklahoma**

Oklahoma City 405-843-8378  
Tulsa 918-249-0820

**Oregon**

Eugene 541-485-4589  
Milwaukie 503-659-9575  
Portland 503-254-2009

**Pennsylvania**

Allentown 610-791-5320  
Clark Summit 717-586-4362  
Erie 814-864-6100  
Harrisburg 717-652-0646  
Lancaster 717-391-6519  
North Wales 215-412-7822  
Philadelphia 215-238-8380  
Pittsburgh (North Hills) 412-367-4620  
Pittsburgh (Braddock Ave.) 412-247-4463  
Plymouth Meeting 610-941-6284  
York 717-755-7471

**Puerto Rico**

Guaynabo 787-706-7640  
Hato Rey 787-753-6394

**Rhode Island**

Cranston 401-942-8552

**South Carolina**

Charleston 843-766-5599  
Columbia 803-354-9221  
Greenville 864-676-1506  
Irmo 803-749-0356

**South Dakota**

Sioux Falls 605-362-4875

**Tennessee**

Chattanooga	423-894-6249
Clarksville	931-647-2003
Franklin	615-790-5018
Knoxville	423-690-0671
Madison (Nashville)	615-860-0376
Memphis	901-266-4606

**Texas**

Abilene	915-698-7858
Amarillo	806-359-1037
Arlington	817-572-6690
Austin	512-441-1978
Beaumont	409-899-9798
Corpus Christi	512-993-3793
Dallas	972-385-1181
El Paso	915-587-7323
Houston (Saturn Ln)	281-488-6144
Mesquite	972-686-3310
Midland	915-520-9418
San Antonio	210-494-7263
Sugar Land	281-491-9200
Tyler	903-510-2842
Waco	254-772-2467

**Utah**

Orem	801-226-5544
Salt Lake City	800-578-6273

**Vermont**

Williston	802-872-0845
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**Virgin Islands**

St. Croix	340-773-5751
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**Virginia**

Arlington/DC Area	703-807-5813
Glen Allen	804-270-3288
Lynchburg	804-832-0778
Newport News	757-873-0208
Roanoke	540-344-3688

**Washington**

Lynnwood	425-774-3922
Puyallup	253-848-0771
Spokane	509-467-8715

**West Virginia**

Morgantown	304-293-0699
South Charleston	304-744-4144

**Wisconsin**

Fox Point	414-540-2223
Madison	608-231-6270
New Berlin	414-796-0836
Racine	414-554-9009

**Wyoming**

Casper	307-235-0070
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## NASD DISCIPLINARY ACTIONS

## NASD Disciplinary Actions

## NASD Disciplinary Actions

*In January, February, and March 2002, the NASD announced the following disciplinary actions against these firms and individuals. Publication of these sanctions alerts members and their associated persons to actionable behavior and the penalties that may result. This information is current as of March 2002.*

District 1 - Northern California (the counties of Monterey, San Benito, Fresno, and Inyo, and the remainder of the state north or west of such counties), northern Nevada (the counties of Esmeralda and Nye, and the remainder of the state north or west of such counties), and Hawaii

## January Actions

None.

## February Actions

**Pacific On-Line Trading & Securities, Inc. (CRD #45737, San Jose, California)** and Timothy Alan McAdams (CRD #2877024, Registered Principal, San Jose, California) were censured and fined \$10,000, jointly and severally, and McAdams was ordered to requalify as a general securities principal. The sanctions were based on findings that the firm, acting through McAdams, maintained a Web site advertisement without filing the Web site with NASD. In addition, the firm, acting through McAdams, used a Web site that was false and misleading because it omitted material information concerning the risks of day-trading and contained exaggerated, unwarranted, and false statements.

The firm and McAdams have appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C01000037)

**James Richard Wamsley (CRD #1149112, Registered Representative, Petaluma, California)** was named as a respondent in an NASD complaint alleging that he prepared a letter to a former customer concerning a tax-deferred annuity, signed his manager's name to the letter, and sent it to the customer without his manager's knowledge and without approval from anyone at his member firm. (NASD Case #C01010017)

## March Actions

None.

District 2 - Southern California (that part of the state south or east of the counties of Monterey, San Benito, Fresno, and Inyo), southern Nevada (that part of the state south or east of the counties of Esmeralda and Nye), and the former U.S. Trust Territories

## January Actions

**Gilbert Louis Almada (CRD #1176134, Registered Representative, Diamond Bar, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Almada consented to the described sanction and to the entry of findings that he used fraudulent and deceptive means to obtain checks totaling \$143,000 from a public customer by falsely telling the customer that he would use the funds to make securities investments on her behalf. The NASD found that Almada never intended to use the funds to purchase the investments on the customer's behalf and instead deposited the funds into a checking account he controlled and used the funds for his own personal use. (NASD Case #C02010060)

**Paul John Hoeper (CRD #2318477, Registered Representative, Newport Beach, California)** was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) affirmed the sanction following appeal of an Office of Hearing Officers decision. The sanction was based on findings that Hoeper failed to respond to NASD requests for information. (NASD Case #C02000037)

**Lawrence Ronald Legind (CRD #2830571, Registered Representative, Corona Del Mar, California)** was named as a respondent in an NASD complaint alleging that he engaged in private securities transactions and outside business activities, and failed to provide prior written notice to, and receive written permission from, his member firm. The complaint also alleges that Legind guaranteed a customer against loss in the customer's account. (NASD Case #C02010062)

**Frank Dennis Schwertfeger (CRD #2692390, Associated Person, Playa Del Rey, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schwertfeger consented to the described sanction and to the entry of findings that he opened securities trading accounts and effected securities transactions with NASD member firms other than his member firm, without informing his member firm of the existence of each of the foregoing accounts, and failed to disclose to the executing firms that he was

associated with a member firm. The findings also stated that Schwertfeger failed to respond to NASD requests for information in a timely manner, and failed and refused to provide full and complete responses to certain requests for information. (NASD Case #C02010061)

**Robert Edward Stoner (CRD #4205337, Registered Representative, Long Beach, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Stoner reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Stoner consented to the described sanctions and to the entry of findings that he willfully misrepresented material facts on a Form U-4.

Stoner's suspension began January 7, 2002, and will conclude at the close of business January 6, 2004. (NASD Case #C02010063)

## February Actions

**John Richard Coleman (CRD #600684, Registered Principal, Orange, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Coleman consented to the described sanctions and to the entry of findings that he recommended transactions of a speculative and high-risk stock, and recommended a covered call strategy, which involved writing options against highly volatile and speculative stocks for the trust account of a public customer without having reasonable grounds for believing that such recommendations were suitable for the customer in light of the size and nature of the transactions, the concentration of speculative securities, and the facts disclosed concerning the customer's other securities holdings, financial situation, investment objectives, circumstances, and needs.

Coleman's suspension began February 4, 2002, and will conclude at the close of business February 15, 2002. (NASD Case #C02010072)

**Harry Gliksman (CRD #223138, Registered Principal, Los Angeles, California)** was censured, suspended from association with any NASD member in any capacity for six months, and required to requalify as a general securities representative. The United States Court of Appeals affirmed the sanctions following appeal of a December 1999 SEC decision. The sanctions were based on findings that Gliksman made unsuitable recommendations to a public customer.

Gliksman filed a petition for rehearing with the United States Court of Appeals; therefore, the sanctions are not in effect pending the court's ruling on the petition for rehearing. (NASD Case #C02960039)

**Christian Limon Gloria (CRD #2548614, Registered Representative, Southgate, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$11,712.13 and barred from association with any NASD member in any capacity with the right to reapply for association with any NASD member firm after four years. The fine must be paid before Gloria reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gloria consented to the described sanctions and to the entry of findings that he recommended that a public customer liquidate her investment in a variable annuity and reinvest the proceeds in another variable annuity with similar investment objectives without having reasonable grounds for believing that such recommendations were suitable for the customer in light of the nature of the transactions and the facts disclosed by the customer as to her other securities holdings, financial situation, circumstances, and needs. The findings also stated that in order to complete the switch from the first annuity to the second annuity, Gloria misrepresented to his direct supervisor that the funds used to purchase the second annuity were coming from the liquidation of a certificate of deposit. (NASD Case #C02010075)

**Harut Harry Gouyoumjan (CRD #2787029, Registered Representative, Sherman Oaks, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gouyoumjan consented to the described sanction and to the entry of findings that while employed by a bank, he removed \$1,000 from his teller cash drawer and deposited the funds into his personal bank account without authorization. (NASD Case #C02010066)

**Keang Patrick Ing (CRD #2697125, Registered Representative, San Gabriel, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Ing consented to the described sanction and to the entry of findings that he executed unauthorized purchase and sale transactions in various options in the accounts of public customers without their knowledge, authorization, or consent. The findings also stated that Ing effected, or caused to be effected, transactions in the securities accounts of public customers and exercised discretionary power in those accounts without prior written authorization from the customers and acceptance in writing by his member firm of the accounts as discretionary. (NASD Case #C02010067)

**Michelle LaVonne (CRD #2013383, Registered Representative, Rancho Santa Margarita, California)** submitted a Letter of Acceptance, Waiver, and Consent in which she was suspended from association with any NASD member in any capacity for two years. In light of the financial status of LaVonne, no monetary sanctions have been imposed. Without admitting or denying the allegations, LaVonne consented to the described sanction and to the entry of findings that she recommended an investment strategy for the accounts of public customers that was

unsuitable for the customers in view of the frequency and nature of the recommended transactions and the customers' financial situation, objectives, circumstances, and needs.

Lavonne's suspension began January 22, 2002, and will conclude at the close of business January 20, 2004. (NASD Case #C02010064)

**Pacific Continental Securities Corporation (CRD #2398, Beverly Hills, California) and George Fleischer Balmer (CRD #1046182, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm acted in contravention of SEC Rule 15c3-3 and NASD Membership and Registration Rule 1014, and Balmer acted in contravention of Membership and Registration Rule 1014 when the firm lost its exemptive status by holding certain customer funds before transferring them to the firm's clearing broker. The NASD found that while the firm deposited the funds in a Special Reserve Account, it failed to make required computations and deposit additional funds into the account to meet the 105% requirement. And, because the firm conducted certain of its business beyond the limitations specified in the exemptive provisions of the Rule, it was required to obtain prior written approval from the NASD but failed to do so. (NASD Case #C02010065)

**Francis Angelo Ricafort (CRD #3024229, Registered Representative, Santa Clarita, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Ricafort consented to the described sanction and to the entry of findings that he embarked on a scheme to convert a public customer's funds for his own use and benefit. According to the findings, Ricafort recommended that a public customer liquidate a mutual fund and reinvest the proceeds with a new mutual fund. After liquidating the mutual fund, Ricafort invested the proceeds totaling \$92,341 in a mutual fund, established a third-party address as the address of record for the fund, obtained possession of the checkbook for the fund, endorsed checks totaling \$90,719.04 by forging a third-party's signature on the respective signature lines, and converted the funds for his own benefit. (NASD Case #C02010070)

**Eric Vonn Schultz (CRD #1978124, Registered Representative, Simi Valley, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schultz consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. The findings also stated that Schultz used the instrumentalities of interstate commerce or the mails intentionally or recklessly, to employ devices to defraud public customers by making untrue statements of material facts and/or omitting to state material facts necessary to make the statements by him, in light of the circumstances in which they were made, not misleading. (NASD Case #C02010069)

**Donny Randall Wells (CRD #1089583, Registered Representative, Santa Rosa, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Wells reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wells consented to the described sanctions and to the entry of findings that he effected transactions in the securities accounts of public customers and exercised discretionary power in those accounts without prior written authorization from the customers and acceptance in writing by his member firm of the accounts as discretionary.

Well's suspension began January 22, 2002, and will conclude at the close of business February 20, 2002. (NASD Case #C02010071)

#### March Actions

None.

[District 3 - Alaska, Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming](#)

[District 3A - Denver](#)

#### January Actions

**Adam Troy Hepworth (CRD #4180579, Registered Representative, Gilbert, Arizona)** was fined \$15,000, suspended from association with any NASD member in any capacity for 30 days for providing false responses, and barred from association with any NASD member in any capacity for failing to respond. The fine must be paid before Hepworth reassociates with any NASD member. The sanctions were based on findings that Hepworth willfully failed to disclose a material fact on a Form U-4 and failed to respond to NASD requests for information.

Hepworth's bar became effective November 20, 2001. (NASD Case #C3A010020)

**Lane Marshall Langley (CRD #1044004, Registered Representative, Dana Point, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine was reduced by \$7,000 in consideration of Langley's voluntary payment to investors, leaving the amount of \$3,000 to be paid to the NASD. Without admitting or denying the allegations, Langley consented to the described sanctions and to the entry of findings that he participated in private securities transactions without prior written notice to, or approval from, his member firm.

Langley's suspension began January 7, 2002, and will conclude on July 6, 2002. (NASD Case #C3A010050)

**Jerry Herbert Shulak (CRD #1993089, Registered Representative, Scottsdale, Arizona)** was named as a respondent in an NASD complaint alleging that he engaged in excessive trading in the account of public customers. (NASD Case #C3A010048)

**Rodney Isamu Yamamoto (CRD #4374826, Registered Representative, Bountiful, Utah)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Yamamoto reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Yamamoto consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on a Form U-4.

Yamamoto's suspension began January 7, 2002, and will conclude at the close of business January 6, 2004. (NASD Case #C3A010047)

### February Actions

**Philip William Merrill (CRD #2436444, Registered Representative, Goodyear, Arizona)** was named as a respondent in an NASD complaint alleging that he entered unauthorized transactions in a public customer's account, resulting in a loss of \$11,101 in the account. (NASD Case #C3A020002)

**Jim Newcomb (CRD #1376482, Registered Representative, Fort Collins, Colorado)** was fined \$32,000 and suspended from association with any NASD member in any capacity for two years. The SEC affirmed the sanctions following appeal of a November 16, 2000, NAC decision. The sanctions were based on findings that Newcomb engaged in private securities transactions, for compensation, without providing prior written notice of his intention to participate in such transactions to, and receiving permission from, his member firm.

Newcomb's suspension began January 22, 2002, and will conclude at the close of business January 21, 2004. (NASD Case #C3A990050)

### March Actions

**Donald Matthew Dirren (CRD #1409432, Registered Representative, Scottsdale, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Dirren reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dirren consented to the described sanctions and to the entry

of findings that he willfully failed to disclose material information on his Uniform Application for Securities Industry Registration or Transfer (Form U-4).

Dirren's suspension began February 19, 2002, and will conclude at the close of business February 19, 2003. (NASD Case #C3A020003)

**Candice Anna Gill (CRD #801714, Registered Representative, Chandler, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gill consented to the described sanction and to the entry of findings that she falsified new account information for public customers. Specifically, the NASD determined that Gill recommended that the customers purchase various limited partnerships. However, based on their financial situations, the customers did not qualify for the limited partnerships as set out in the Offering Memoranda. The NASD findings stated that in order to qualify the customers for the investments and thereby consummate the transactions, Gill inserted false financial information including annual income, net worth, and liquid net worth on subscription documents and new account information to qualify the customers for the recommended investments. The findings also stated that Gill sold illiquid limited partnership interests to public customers without having reasonable grounds for believing that the recommendations were suitable for each customer based on other security holdings, financial situations, and needs. (NASD Case #C3A020004)

**Robert John Hilgers (CRD #1200193, Registered Representative, Barrington, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$50,035 in disgorgement. The disgorgement must be paid before Hilgers reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hilgers consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, or receiving written permission from, his member firm to participate in the transactions. (NASD Case #C3A020005)

**Jay R. Rice (CRD #1832274, Registered Representative, Salt Lake City, Utah)** was fined \$130,363, suspended from association with any NASD member in any capacity for 12 months, ordered to requalify by examination in all capacities for engaging in private securities transactions, and fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days for the failure to disclose information on a Form U-4. The sanctions were based on findings that Rice participated in private securities transactions without providing prior written notification to, or receiving approval from, his member firm to participate and to receive compensation, and for failing to disclose material information on his Form U-4.



Rice's suspensions began February 4, 2002, and will conclude at the close of business February 4, 2003. (NASD Case #C3A010005)

**Jerry Herbert Shulak (CRD #1993089, Registered Representative, Scottsdale, Arizona)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 31 days. Without admitting or denying the allegations, Shulak consented to the described sanctions and to the entry of finding that he engaged in excessive trading in the account of public customers.

Shulak's suspension began March 4, 2002, and will conclude at the close of business April 3, 2002. (NASD Case #C3A010048)

#### District 3B - Seattle

#### January Actions

None.

#### February Actions

**Barbara Sue Edgemon (CRD #2386050, Registered Representative, Otis Orchards, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Edgemon consented to the described sanction and to the entry of findings that she participated in the sale of promissory notes to public customers totaling \$1,554,000 and failed to provide written notice to her member firm describing in detail the proposed transactions, her proposed role therein, and stating whether she would receive, or might receive, selling compensation in connection with the transactions. (NASD Case #C3B010019)

#### March Actions

**Pacific Crest Securities, Inc. (CRD #6619, Portland, Oregon) and Scott Edwards Sandbo (CRD #2410092, Registered Principal, Portland, Oregon)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000 and Sandbo was fined \$45,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Sandbo, failed to ensure that Sandbo was properly registered as a principal when he was actively engaged in the management of the firm's business, or to remove him from active engagement in the management of the firm's business until properly registered. The findings also stated that the firm, acting through another individual, permitted the individual to act as a registered person when

his registration status with the NASD was inactive due to his failure to complete the Regulatory Element of the NASD's Continuing Education Requirement. In addition, the NASD found that the firm used a non-compliant, non-synchronized, mechanical time stamp machine that failed to provide the "seconds" field to document the times of receipt and execution of customers' orders.

Sandbo's suspension began February 18, 2002, and concluded at the close of business March 1, 2002. (NASD Case #C3B020001)

District 4 - Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota

#### January Actions

**Kris Paul Binneboese (CRD #2850596, Registered Representative, Hinton, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Binneboese consented to the described sanction and to the entry of findings that he willfully failed to disclose a material fact on his Uniform Application for Securities Industry Registration or Transfer (Form U-4). The findings also stated that Binneboese failed to respond to NASD requests for information. (NASD Case #C04010041)

**Mary Ann Donaghy (CRD #1468163, Registered Representative, Indianola, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Donaghy reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Donaghy consented to the described sanctions and to the entry of findings that she mishandled customer funds by accepting cash from public customers and placing it in a bank account that she controlled.

Donaghy's suspension began December 17, 2001, and concluded at the close of business December 31, 2001. (NASD Case #C04010042)

#### February Actions

**Aethlon Capital, L.L.C. (CRD #42241, Minneapolis, Minnesota) and John William Pagnucco, Jr. (CRD #355245, Registered Principal, Wayzata, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Pagnucco, commenced private placement contingent offerings and failed to establish independent escrow accounts for the offerings into which customer funds would be deposited pending the achievement

of the contingency. The NASD found that the firm held the funds until a later date or until the offering closed. The findings also stated that the firm, acting through Pagnucco, permitted sales in an offering beyond the time period specified in the offering documents without providing notice to prior investors, reconfirming their purchases or offering them rescission, and conducted a securities business while failing to maintain adequate minimum net capital. The NASD also found that the firm, acting through Pagnucco, failed to make and keep current a blotter containing an itemized daily record of the receipt, delivery, and/or disbursement of the customer funds and customer checks received from the contingent offerings. (NASD Case #C04020001)

**Verna Lynn Eller (CRD #2085566, Registered Representative, Chillicothe, Missouri)** was named as a respondent in an NASD complaint alleging that she caused checks totaling \$40,000 to be issued from the accounts of public customers and affixed the customers' endorsement signatures on the check and money fund joint account applications without the customers' knowledge or consent. The complaint alleges that Eller deposited the funds into a money fund joint account she controlled, and subsequently transferred the funds to an account in her name and the names of her husband and son. Furthermore, the complaint alleges that Eller received \$340 in cash from a public customer with instructions from the customer to purchase shares of stock, handed the customer a handwritten document as a putative receipt, and failed to open the account for the customer or purchase stock as intended, and, instead, retained the cash for her own use and benefit. The NASD also alleges that Eller failed to respond to NASD requests for information. (NASD Case #C04010043)

### March Actions

**Dain Rauscher, Inc. (CRD #31184 Minneapolis, Minnesota) and Gary Franklin Hayden (CRD #240386, Registered Representative, Seattle, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. In addition, the firm and Hayden were jointly and severally liable for costs of the exchange of shares offered to public customers of \$82,942.87 and Hayden was fined \$15,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Hayden recommended the purchase of Class B shares of growth funds to public customers and omitted to inform the customers that they would have benefited from investing in Class A shares because of the ability to receive discounts on sales charges of large purchases and the lower ongoing fees and expenses of the Class A shares.

The findings also stated that Hayden failed to disclose material facts necessary to make the statements made in the course of his recommendations not misleading, including a comparison of the 12b-1 fees, front-end sales charges, and

the impact of time on these costs and charges; thus, the customers were not adequately informed of their investment options. The NASD determined that the firm failed to maintain adequate procedures to provide for the prompt review of large purchases of Class B mutual funds or otherwise provide specific tools or other supervisory policies to assist its sales practice supervisors in adequately assessing the suitability of Class B share purchases by public customers. Furthermore, the findings stated that the firm had no automated or manual system in place to detect mutual fund breakpoints, purchase limitations, or problematic patterns in Class B share purchases of mutual funds. Finally, the firm's written supervisory procedures gave no direction to branch office managers or other supervisors as to how to detect and prevent breakpoint problems, Class B share purchase suitability problems, and how to evidence their supervisory review.

Hayden's suspension began February 19, 2002, and concluded at the close of business March 4, 2002. (NASD Case #C04020002)

**Alayna Michelle Slaughter (CRD #4365152, Registered Representative, Minneapolis, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Slaughter consented to the described sanction and to the entry of findings that she willfully failed to disclose a material fact on a Form U-4. The findings also stated that Slaughter failed to respond to NASD requests for information. (NASD Case #C04020003)

District 5 - Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, and Tennessee

### January Actions

**Lee Edward Bridges (CRD #1509183, Registered Representative, McComb, Mississippi)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for one year. In light of the financial status of Bridges, no monetary sanctions have been imposed. Without admitting or denying the allegations, Bridges consented to the described sanction and to the entry of findings that he engaged in business activities outside the scope of his relationship with his member firm without prior written notice to the firm. The findings also stated that Bridges received \$1,000 from a public customer to open up an Individual Retirement Account (IRA), failed to open the account as instructed and maintain proper control of the funds, and thereby allowed the funds to be misappropriated by an employee.

Bridges' suspension began January 7, 2002, and will conclude at the close of business January 6, 2003. (NASD Case #C05010021)

**William Otis Haff (CRD #2605143, Registered Representative, Dallas, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Haff consented to the described sanction and to the entry of findings that he received 401(k) roll-over checks totaling \$3,063.99, made payable to his member firm for the benefit of public customers. The findings stated that Haff failed to remit the checks to his member firm and, instead, forged the customer name to the back of the checks, deposited the checks into accounts he controlled, thereby converting the funds to his own use and benefit without customer knowledge or consent. (NASD Case #C05010052)

**Marshall Eugene Hoggard (CRD #1515720, Registered Representative, Jackson, Tennessee)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hoggard consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. The findings also stated that Hoggard engaged in business activity outside the scope of his relationship with his member firm for which he accepted compensation without prior written notice to his firm. (NASD Case #C05010050)

**Yago Marti Sobrevias (CRD #2642527, Registered Representative, Madrid, Spain)** was fined \$57,750 and barred from association with any NASD member in any capacity. The fine shall be due and payable upon Sobrevias' reassociation with an NASD member. The sanctions were based on findings that Sobrevias engaged in an unauthorized transaction in that he purchased securities for a customer without the prior knowledge, authorization, or consent of the customer. In addition, to conceal the unauthorized purchase, Sobrevias prepared and sent statements to a public customer that falsely reflected the purchase of securities that the customer had requested him to acquire but had not in fact purchased. Furthermore, Sobrevias prepared a letter of guarantee for a public customer guaranteeing the principal value of the customer's portfolio, without the authorization of his member firm, and failed to respond to NASD requests for information. (NASD Case #C05010027)

## February Actions

**Decole Leeann Bee (CRD #3251151, Registered Representative, Dallas, Texas)** was named as a respondent in an NASD complaint alleging that she completed a personal line of credit application in the name of her grandfather and forged his name to the application without his knowledge or consent. The complaint also alleges that Bee executed and processed cash advances on the line of credit in the amount of \$6,000 and checks totaling \$550 against the line of credit, thereby converting the funds to her own use and benefit. The complaint also alleges that Bee failed to respond to NASD requests for information. (NASD Case #C05010055)

**Wendell Duane Belden (CRD #1324913, Registered Principal, Tulsa, Oklahoma)** was fined \$40,000, required to pay \$55,567.03, plus interest, in restitution to the estate of a public customer, suspended from association with any NASD member in any capacity for 90 days, and ordered to requalify by exam as a principal before functioning in any principal capacity. The sanctions were based on findings that Belden made unsuitable recommendations to a public customer.

Belden has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C05010012)

**Jon Letang (CRD #1615102, Registered Representative, Spring, Texas)** was fined \$10,000, suspended from association with any NASD member in any capacity for six months for failing to disclose material information, and barred from association with any NASD member in any capacity for failure to respond to NASD requests for information. The fine must be paid before Letang reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. The sanctions were based on findings that Letang failed to disclose material facts on his Form U-4.

Letang's bar became effective January 2, 2002. (NASD Case #C05010032)

**Robert Steve Miles (CRD #1569883, Registered Representative, Tulsa, Oklahoma)** was fined \$10,000, required to pay \$13,400 in restitution to public customers, suspended from association with any NASD member in any capacity for 180 days for private securities transactions, and barred from association with any NASD member in any capacity for failure to respond to NASD requests for information. The fine must be paid before Miles reassociates with any NASD member or before requesting relief from any statutory disqualification. The sanctions were based on findings that Miles engaged in private securities transactions for compensation without providing prior written notice to, and receiving approval from, his member firm, and for failing to respond to NASD requests for information.

Miles' bar became effective December 24, 2001. (NASD Case #C05010020)

## March Actions

**American United Life Insurance Company (CRD #1075, Indianapolis, Indiana)** submitted an Offer of Settlement in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it distributed advertising materials and sales literature for variable annuity contract products that contained material omissions, unbalanced representations, or misrepresentations. The findings also stated that the firm failed and neglected to establish, maintain, and enforce adequate written supervisory procedures governing the review, approval, and distribution of advertising materials

and sales literature relating to variable annuity contract products. (NASD Case #C05010011)

**Ascend Financial Services, Inc., n/k/a Securian Financial Services, Inc. (CRD #15296, St. Paul, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain, and enforce adequate written supervisory procedures relating to the supervision of registered representatives who were general agents of the insurance company affiliated with the firm. (NASD Case #C05020004)

#### District 6 - Texas

#### January Actions

**Christina I. Dharamsingh (CRD #4075197, Registered Representative, Houston, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Dharamsingh reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dharamsingh consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on a Form U-4.

Dharamsingh's suspension will begin January 22, 2002, and will conclude July 21, 2002. (NASD Case #C06010038)

**Arturo Elias Gorena (CRD #1941195, Registered Representative, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gorena consented to the described sanction and to the entry of findings that he guaranteed a public customer's account against loss and represented that he had put a lien on his home as collateral for the guarantee. The findings stated that Gorena prepared correspondence and gave it to a public customer, which included statements that failed to offer a sound basis for evaluating the claim contained within the statement, were unwarranted, and failed to reflect the risks of fluctuating prices and the uncertainty of rates of return and yield. The findings also stated that Gorena failed to respond to NASD requests for information. (NASD Case #C06010036)

**George Louis Lindenberg (CRD #4249880, Registered Representative, Austin, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Lindenberg reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the

allegations, Lindenberg consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on a Form U-4.

Lindenberg's suspension will begin January 22, 2002, and will conclude at the close of business October 21, 2002. (NASD Case #C06010037)

**Alvaro Fabian Rodriguez (CRD #2076732, Registered Representative, Addison, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was ordered to pay \$8,725 in restitution to a public customer and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Rodriguez consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction without providing written notice to his member firm of the transactions, his role therein, and whether he would receive compensation.

Rodriguez's suspension will begin January 22, 2002, and will conclude at the close of business February 19, 2002. (NASD Case #C06010039)

#### February Actions

**Bill Warren Briley (CRD #1447544, Registered Representative, Brenham, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Briley engaged in private securities transactions and failed to provide prior written notice of the transactions, his role therein, and to receive permission from his member firm to engage in the transactions. In addition, Briley failed to respond to NASD requests for information. (NASD Case #C06010012)

**Richard Scott Gregory (CRD #2837455, Registered Representative, Dallas, Texas)** was named as a respondent in an NASD complaint alleging that he executed unauthorized transactions in the account of a public customer without his prior knowledge or authorization. (NASD Case #C06010045)

**Michael Earl Hill (CRD #2186074, Registered Principal, Plano, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Hill reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hill consented to the described sanctions and to the entry of findings that he prepared correspondence that contained misleading statements, gave it to a public customer, and failed to include material information.

Hill's suspension began February 4, 2002, and will conclude at the close of business April 4, 2002. (NASD Case #C06010047)

**Michael Earl Hill (CRD #2186074, Registered Principal, Plano, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hill consented to the described sanction and to the entry of findings that he received \$2.6 million from public customers based on representations that he was going to purchase certificates of deposit on their behalf. Instead, Hill used these funds for his personal benefit. (NASD Case #C06010048)

**Tuan Ba Le (a/k/a Jason Le) (CRD #3079382, Registered Representative, Grand Prairie, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Le made unauthorized withdrawals totaling \$176,000 from a public customer's bank account by signing the customer's name on withdrawal slips and used the funds for his own use and benefit without the authorization, knowledge, or consent of the customer. (NASD Case #C06010017)

**MG Securities Group, Inc. (CRD #42991, Dallas, Texas) and Michael Paul Anderson (CRD #1625289, Registered Principal, Richardson, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$21,000, of which \$20,000 is payable jointly and severally with Anderson. Anderson was also suspended from association with any NASD member in a principal capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that in connection with a best efforts, "minimum-maximum" offering, the firm, acting through Anderson, rendered false the representations in the offering memorandum that the offering would terminate on a specified date and that investors' funds would be promptly returned if the minimum offering amount was not obtained during the initial offering period. The NASD found that the offering continued for two months after the initial 60-day period and the firm broke escrow early by causing the funds to be transferred to the issuer. The findings stated that the firm failed to transmit through the Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) last-sales reports of over-the-counter (OTC) securities transactions within 90 seconds of execution and the reported transactions did not contain an ".SLD" modifier as required. The NASD also determined that the firm, acting through Anderson, failed to establish, maintain, and enforce written supervisory procedures reasonably designed to ensure compliance with applicable securities laws and regulations and with rules of the NASD.

Anderson's suspension began February 4, 2002, and will conclude at the close of business March 5, 2002. (NASD Case #C06010044)

**Premier Group, Inc. (CRD #47346, San Antonio, Texas) and Hugh John Graham (CRD #1542345, Registered Principal, San Antonio, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500, jointly and severally, and the firm and Graham agreed to the imposition of an advertising "pre-use filing requirement" for a one-year period, whereby

the respondents must file sales literature with the Advertising Regulation Department of NASD Regulation and obtain approval for the use of such sales literature prior to the time such sales literature is used.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Graham, approved a telephone sales script relating to oil and gas investments that was used by the firm's sales staff; however, the script omitted material information, contained exaggerated and misleading information, and did not provide a sound basis for certain information. The findings stated that the firm, acting through Graham and another individual, allowed representatives of the firm to engage in the investment banking and securities business without being properly registered with the NASD. The NASD also found that the firm, acting through Graham, failed to establish, maintain, and enforce written supervisory procedures reasonably designed to comply with applicable NASD rules concerning the permissible activities of non-registered employees. (NASD Case #C06010043)

**Tanya N. Vu (CRD #2954683, Registered Principal, Houston, Texas)** was fined \$10,000, suspended from association with any NASD member in any capacity for 30 business days, and required to requalify by exam before reentering the securities industry. The sanctions were based on findings that Vu failed to update her Form U-4 to disclose a material fact.

Vu's suspension began January 7, 2002, and will conclude at the close of business February 19, 2002. (NASD Case #C06010015)

**Waterford Capital, Inc. (CRD #21687, Dallas, Texas) and David Patrick O'Connor (CRD #2143494, Registered Principal, Dallas, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through O'Connor, allowed registered representatives to act in capacities requiring registration while they were inactive for failing to complete the Regulatory Element of Continuing Education. (NASD Case #C06010042)

## March Actions

**Jeffrey Charles Bruteyn (CRD #2575306, Registered Principal, Dallas, Texas)** submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Bruteyn reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bruteyn consented to the described sanctions and to the entry of findings that he executed purchase transactions in the account of a public customer without the customer's prior knowledge or consent. The findings also stated that Bruteyn guaranteed a public

customer's account against loss in exchange for the customer granting Bruteyn discretionary authority over her account. The NASD also found that Bruteyn failed to follow a customer's instructions to terminate the margin agreement on her account, to use only the cash in her account to make investments, not to borrow against her securities account to make investments, and to liquidate the customer's securities account. The findings further stated that Bruteyn represented to the customer that he had followed the customer's instructions when, in fact, he continued to execute margin transactions in the customer's account.

Bruteyn's suspension began February 19, 2002, and will conclude at the close of business August 18, 2003. (NASD Case #C06010029)

**Cavin Wayne Galtieri (CRD #3051437, Registered Representative, Austin, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Galtieri reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Galtieri consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Galtieri's suspension began February 19, 2002, and will conclude August 18, 2002. (NASD Case #C06010049)

**Richard Scott Gregory (CRD #2837455, Registered Representative, Dallas, Texas)** was named as a respondent in an NASD complaint alleging that he executed a purchase transaction in the account of a public customer without the customer's prior knowledge or authorization. (NASD Case #C06010045)

District 7 - Florida, Georgia, North Carolina, South Carolina, Virginia, Puerto Rico, the Canal Zone, and the Virgin Islands

### January Actions

**Joseph Albert Best (CRD #2396728, Registered Representative, Leesburg, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Best consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, or authorization from, his member firm. The findings also stated that Best failed to respond to NASD requests for information. (NASD Case #C07010092)

**William Lester Bennett (CRD #1112341, Registered Representative, Sanford, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. In light of the financial status of Bennett, no monetary sanction has been imposed. Without

admitting or denying the allegations, Bennett consented to the described sanction and to the entry of findings that he participated in sales of private securities to public customers without providing prior notice to, or obtaining written authorization from, his member firm.

Bennett's suspension began December 17, 2001, and will conclude at the close of business December 16, 2003. (NASD Case #C07010079)

**Richard Arlan Corley (CRD #800781, Registered Representative, Wake Forest, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Corley consented to the described sanction and to the entry of findings that he was directed by his member firm to open brokerage accounts for each of his customers, to transfer all of their mutual fund and annuity holdings into those accounts within 90 days, and to have his clients complete all required documentation for transactions effected in their accounts. The findings stated that Corley completed the required forms and mailed them to his clients with instructions to sign and return them by a stated deadline but some of his clients failed to return the forms by the deadline. In those instances, Corley signed the client's name on the required forms without authorization. Corley's suspension began January 7, 2002, and will conclude at the close of business January 18, 2002. (NASD Case #C07010081)

**Frank Joseph Gilday, IV (CRD #2198718, Registered Representative, New Smyrna Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, Gilday consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in a public customer's account. The findings also stated that Gilday, after receiving a complaint from the same customer concerning another transaction, settled the complaint away from his member firm.

Gilday's suspension began January 7, 2002, and will conclude at the close of business February 20, 2002. (NASD Case #C07010089)

**Emmanuel George Kavekos (CRD #2794227, Registered Representative, West Palm Beach, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Kavekos engaged in unauthorized transactions in the accounts of public customers. In addition, Kavekos made baseless price predictions to public customers in order to induce the customers to purchase securities and failed to respond to NASD requests for information and to appear for an interview. (NASD Case #C07010045)

**Gary Ronald Putti (CRD #2630113, Registered Representative, Miami, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Putti failed to respond to NASD requests for information. (NASD Case #C07010042)

**Haskell Paul Stone, III (CRD #3035254, Registered Representative, Stuart, Florida)** was fined \$10,000 and barred from association with any NASD member in any capacity for material misrepresentations and omissions, and fined \$5,000 and suspended from association with any NASD member in any capacity for one year for making unsuitable recommendations. The fine shall be due and payable upon Stone's reassociation with an NASD member. The sanctions were based on findings that Stone made material misrepresentations and omissions when making recommendations to public customers, including baseless price predictions, false statements, and inadequate risk disclosure. In addition, Stone recommended and implemented a course of trading in the account of a public customer that was unsuitable based upon the customer's lack of investment experience and the use of borrowed funds.

Stone's bar was effective December 5, 2001. (NASD Case #C07010051)

**Frank James Varsalona (CRD #3211699, Registered Representative, Margate, Florida)** was named as a respondent in an NASD complaint alleging that he effected, or caused to be effected, unauthorized transactions totaling \$42,479.41 in the accounts of public customers without their knowledge or consent. (NASD Case #C07010086)

## February Actions

**Bruce David Dannenberg (CRD #2602486, Registered Representative, Black Mountain, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for five months. Without admitting or denying the allegations, Dannenberg consented to the described sanction and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed written notice of the transactions and his role therein, and to receive permission from the firm to engage in the transactions.

Dannenberg's suspension began January 22, 2002, and will conclude at the close of business June 21, 2002. (NASD Case #C07010097)

**Robert Sippel Harrison (CRD #1891983, Registered Representative, Jacksonville, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to disgorge \$457.50. Satisfactory proof of payment of disgorgement must be made before Harrison reassociates with any NASD member. Without admitting or denying the allegations, Harrison consented to the described sanctions

and to the entry of findings that he engaged in outside business activities for which he received compensation without prior written notice to his member firm. (NASD Case #C07010102)

**Roger Andrew Heubach (CRD #1057670, Registered Representative, Raleigh, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Heubach consented to the described sanction and to the entry of findings that he deposited checks into his personal bank account that were given to him by a public customer for investment purposes, without authorization from the customer. (NASD Case #C07010093)

**Winston Lee Hodges (CRD #714571, Registered Representative, Raleigh, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. In light of the financial status of Hodges, no monetary sanctions have been imposed. Without admitting or denying the allegations, Hodges consented to the described sanction and to the entry of findings that he engaged in outside business activities related to financial planning for which he received compensation without prompt, written notice of his involvement in the activities to his member firm. (NASD Case #C07010103)

**Inter Securities, Ltd. (CRD #40733, Encino, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it failed to ensure that it maintained and designated in its written supervisory procedures, an appropriately registered principal to carry out the supervisory responsibilities of the firm for each type of business in which it engaged. (NASD Case #C07010094)

**Carlos Tomas Jordan (CRD #4159949, Registered Representative, Guaynabo, Puerto Rico)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Jordan cheated during a qualification examination. (NASD Case #C07010060)

**Abdulla Akhterhusain Kagalwalla (CRD #2717532, Registered Principal, Clearwater, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kagalwalla consented to the described sanction and to the entry of findings that he participated in the preparation of offering materials for private offerings interests that were used to solicit investors, contained materially false and misleading statements, and failed to disclose material facts necessary to make the statements therein not misleading. The findings also stated that Kagalwalla participated in a private securities transaction without providing prior written notice to, or receiving prior written approval from, his member firm. (NASD Case #C07010096)

**Ryan O'Neal Rancher (CRD #2492877, Registered Representative, Birmingham, Alabama)** submitted an Offer of Settlement in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Rancher reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rancher consented to the described sanctions and to the entry of findings that he submitted to his member firm a customer retirement plan enrollment form containing false and/or inaccurate customer financial and other information, and forged the customer's name on the enrollment form.

Rancher's suspension began February 4, 2002, and will conclude at the close of business February 3, 2003. (NASD Case #C07010054)

**Jack Harry Stein (CRD #1233359, Registered Representative, West Palm Beach, Florida)** was fined \$25,000, and suspended from association with any NASD member in any capacity for three months. The NAC imposed the sanctions following the appeal of an Office of Hearing Officer (OHO) decision. The sanctions were based on findings that Stein recommended and implemented a course of unsuitable and excessive trading in a public customer's account without having a reasonable basis for believing that such recommendations were suitable for the customer due to the nature of the securities, the concentration of the securities in the account, and the customer's investments objectives, financial situation, and needs.

Stein has appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C07000003)

**Matthew David Stone (CRD #2922068, Registered Representative, Stuart, Florida)** submitted an Offer of Settlement in which he was fined \$10,000 and barred from association with any NASD member in any capacity with the right to reapply after two years. The fine must be paid before Stone reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Stone consented to the described sanctions and to the entry of findings that he engaged in widespread, fraudulent sales practices and lured customers into highly speculative investments in risky securities by making misrepresentations and omissions to the customers, including baseless price predictions and providing false statements to customers without providing adequate and accurate information regarding the securities he recommended, and without having a reasonable basis for such representations. The findings also stated that Stone failed to follow customers' instructions to sell stock and engaged in unauthorized trading in a customer's account. (NASD Case #C07010050)

**Dawn Marie Stuhr (CRD #2985179, Registered Representative, Davidson, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any

capacity. Without admitting or denying the allegations, Stuhr consented to the described sanction and to the entry of findings that she caused checks totaling \$6,560 to be issued from the bank account of a public customer without the customer's authorization, and then obtained and used the proceeds for her own use and benefit. (NASD Case #C07010105)

**Thomas Andrew Timberlake (CRD #870022, Registered Principal, Tampa, Florida)** was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omissions to public customers with regard to their purchase of certificates of deposit (CDs). Specifically, the complaint alleges that Timberlake failed to disclose that the CDs had a 15- or 20-year maturity, that the principal was subject to secondary market risk if the customers wanted to liquidate the CDs prior to maturity, or that the CDs were zero coupon CDs that paid no interest. The complaint also alleges that Timberlake falsely represented to customers that they would have access to their money at any time and that the only risk was loss of interest. Furthermore, the complaint alleges that Timberlake falsely told customers that they could redeem the CDs after two years at full value because they were FDIC insured when in fact they were not. (NASD Case #C07010099)

## March Actions

**George Anaya, Jr. (CRD #2830436, Registered Representative, Jupiter, Florida)** submitted an Offer of Settlement in which he was fined \$40,000, including the disgorgement of \$20,000 of commissions received, and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Anaya reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Anaya consented to the described sanctions and to the entry of findings that he engaged in a course of excessive and unsuitable trading in the account of a public customer. The findings also stated that Anaya failed to respond to NASD requests to appear and give testimony.

Anaya's suspension began February 19, 2002, and will conclude at the close of business February 18, 2004. (NASD Case #C07010064)

**John Robert Bacon (CRD #4064268, Registered Representative, Deerfield Beach, Florida)** was barred from association with any NASD member in any capacity and required to pay \$5,000 in restitution to a public customer. The sanctions were based on findings that Bacon received checks totaling \$5,000 made payable to him from a public customer to be invested. Rather than establish an account and make the investment as instructed, Bacon converted the funds to his own use and benefit. In addition, Bacon failed to respond to NASD requests for information. (NASD Case #C07010074)



**Ramon Todd Chimelis (CRD #1632927, Registered Representative, Maitland, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chimelis consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #C07010088)

**John Right Crawford (CRD #710758, Registered Supervisor, High Point, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Crawford consented to the described sanction and to the entry of findings that he received approximately \$29,294 of funds from an investment club for investment purposes, failed to deposit the funds as directed, and converted the funds to his own use and benefit. (NASD Case #C07020004)

**Fereadoon Kalantari (CRD #1611327, Registered Representative, Jonesboro, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$90,000, including the disgorgement of \$84,537.55 of commissions received, and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Kalantari reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kalantari consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation, failed to provide prompt written notice to his firm, and failed to amend his Form U-4 to add this affiliation.

Kalantari's suspension began February 19, 2002, and will conclude at the close of business February 18, 2003. (NASD Case #C07020003)

**John Perez (CRD #1093871, Registered Representative, Alhambra, California)** was barred from association with any NASD member in any capacity and required to pay \$5,000 in restitution to a public customer. The sanctions were based on findings that Perez received \$5,000 from public customers to be invested and, rather than make the investment as instructed, he converted the funds for his own use and benefit. In addition, Perez failed to respond to NASD requests for information. (NASD Case #C07010067)

**Wachovia Securities, Inc. (CRD #431, Charlotte, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that its supervisory system failed to detect unsuitable activity in the accounts of public customers because the firm failed to follow its written supervisory procedures pertaining to the review and monitoring of customer account activity. (NASD Case #C07020001)

**Richard Goodwin Whitley (CRD #1195472, Registered Representative, Monroe, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Whitley consented to the described sanction and to the entry of findings that he caused checks totaling \$7,700 to be issued as loans against the insurance policy of a public customer without the customer's authorization, obtained the proceeds of the checks, and then converted the proceeds for his own use and benefit. (NASD Case #C07020002)

District 8 - Illinois, Indiana, Michigan, part of upstate New York (the counties of Monroe, Livingston, and Steuben, and the remainder of the state west of such counties) Ohio, and Wisconsin

District 8A - Chicago

### January Actions

**ABN AMRO, Incorporated (CRD #15776, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report, or completely and accurately report, transactions in municipal securities effected with other broker/dealers, municipal securities dealers, or with institutional and retail customers. The NASD also found that the firm failed to provide accurate and timely information regarding municipal securities trades to the National Securities Clearing Corporation (NSCC), which caused its T-Input Percentage to be below the industry average. The findings also stated that the firm failed to report municipal securities transactions with a proper Effecting Broker Symbol (EBS), in that it had a non-compliance percentage that was below the industry average.

In addition, the NASD found that the firm failed to obtain and maintain adequate documentation for securities accounts, for which the beneficial owners of the accounts were not identified, in that the accounts were undisclosed principal accounts, and/or accounts of investment partnerships or corporations that purchased shares of initial public offerings (IPOs), which traded at a premium on the secondary market. Furthermore, the findings stated that the firm failed to establish, maintain, and/or enforce adequate written supervisory procedures to address all areas of its municipal securities business in that the firm's procedures failed to address municipal securities trade reporting and failed to state any procedure to test whether automated systems are properly reporting municipal securities transactions. (NASD Case #C8A010084)

**Thomas James Bruch (CRD #1211757, Registered Principal, New Canaan, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$41,000, which includes the disgorgement of a transaction profit of \$39,000. Without admitting or denying the

allegations, Bruch consented to the described sanctions and to the entry of findings that in contravention of NASD Rule IM-2110-1, he purchased, or allowed to be purchased, shares of common stock for his account held at a member firm at the public offering price per share. The NASD also found that Bruch engaged in such activities while failing to give written notice to his member firm that he had opened and was maintaining the account. (NASD Case #C8A010081)

**James Edward Dvorak (CRD #3110894, Registered Representative, Elmhurst, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,559.51, required to disgorge \$4,440.49, plus interest, in commissions to public customers, and suspended from association with any NASD member in any capacity for four months. The fine and disgorgement must be paid before Dvorak reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dvorak consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving approval from, his member firms.

Dvorak's suspension began December 17, 2001, and will conclude at the close of business April 16, 2002. (NASD Case #C8A010083)

**Quint Edward Robinson (CRD #2719933, Registered Representative, Chesterton, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Robinson reassociates with any NASD member, or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Robinson consented to the described sanctions and to the entry of findings that he affixed the signatures of public customers on a document containing mutual fund disclosure information, without the customers' knowledge or consent.

Robinson's suspension began January 7, 2002, and will conclude July 6, 2002. (NASD Case #C8A010087)

**Richard Allen Solmen (CRD #430310, Registered Representative, Clarkston, Michigan)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,500, which includes disgorgement of commissions earned of \$1,000, and suspended from association with any NASD member in any capacity for one month. The fine must be paid before Solmen reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Solmen consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for which he received compensation, without providing prompt written notice to his member firm.

Solmen's suspension began January 7, 2002, and will conclude at the close of business February 6, 2002. (NASD Case #C8A010089)

**William Kenneth Wilson (CRD #1370065, Registered Representative, Arlington Heights, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Wilson reassociates with any NASD member or before any request for relief from any statutory disqualification. Without admitting or denying the allegations, Wilson consented to the described sanctions and to the entry of findings that he deposited into an account for his benefit a commission check of \$912.28 for his life insurance policy, which check was payable to another representative, without the knowledge or consent of the representative.

Wilson's suspension began December 17, 2001, and will conclude at the close of business January 30, 2002. (NASD Case #C8A010085)

## February Actions

**David Lawrence Dosik (CRD #1978544, Registered Representative, Northbrook, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Dosik reassociates with any NASD member following the suspension. Without admitting or denying the allegations, Dosik consented to the described sanctions and to the entry of findings that he engaged in, and/or accepted compensation for, activities as an agent of a life insurance company without providing prompt written notice of his outside business activities to his member firm.

Dosik's suspension began February 4, 2002, and will conclude at the close of business February 15, 2002. (NASD Case #C8A020001)

**Kerry W. Hough (CRD #731839, Registered Representative, Peoria, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Hough reassociates with any NASD member following the suspension or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Hough consented to the described sanctions and to the entry of findings that he affixed the signatures of public customers on applications for variable life insurance policies.

Hough's suspension began February 4, 2002, and will conclude at the close of business February 15, 2002. (NASD Case #C8A020003)

**M&I Brokerage Services, Inc. (CRD #16517, Milwaukee, Wisconsin)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed individuals who were registered with

the firm as investment company and variable contracts products representatives to act in capacities requiring registration as general securities representatives by, among other things, paying, or causing to be paid to, the representatives compensation based on equity securities transactions executed in customer accounts. The NASD also found that the firm failed to administer a continuing education program for the firm element for its registered persons. (NASD Case #C8A010043)

**Michael L. Niemczyk (CRD #3097183, Registered Representative, Round Lake Beach, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Niemczyk reassociates with any NASD member following the suspension or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Niemczyk consented to the described sanctions and to the entry of findings that he affixed the signature of a public customer to two account transfer forms without the customer's knowledge or consent.

Niemczyk's suspension began February 4, 2002, and will conclude August 3, 2002. (NASD Case #C8A020002)

**Barry Ray Phipps, Sr. (CRD #362867, Registered Representative, Columbia City, Indianapolis)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Phipps consented to the described sanction and to the entry of findings that he participated, for compensation, in private securities transactions by participating in the sale of securities in the form of promissory notes without prior written notice to, and approval from, his member firm, prior to engaging in such activities. The NASD also found that Phipps failed and neglected to provide prompt written notice to his member firm of his outside business activities of providing payroll services relating to a company's promissory note business. The findings also stated that Phipps failed to respond to an NASD request to appear for an on-the-record interview. (NASD Case #C8A010095)

**John Phillip Toepper (CRD #2333199, Registered Representative, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Toepper reassociates with a member firm or prior to requesting relief from any statutory disqualification. Without admitting or denying the allegations, Toepper consented to the described sanctions and to the entry of findings that he accepted compensation for accounting-related services that he provided to two entities pursuant to employment agreements he entered into with those entities. In connection therewith, he failed and neglected to provide prompt, written notice to his member firm of his outside business activities.

Toepper's suspension began February 4, 2002, and will conclude at the close of business February 15, 2002. (NASD Case #C8A010098)

**Keith Frederick Yearout (CRD #2322125, Registered Representative, Cincinnati, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Yearout reassociates with any NASD member or before requesting for relief from any statutory disqualification. Without admitting or denying the allegations, Yearout consented to the described sanctions and to the entry of findings that he affixed the signatures of public customers, as trustees, to a member firm's account transfer form, without the trustees' or beneficiary's knowledge or consent.

Yearout's suspension began February 4, 2002, and will conclude August 3, 2002. (NASD Case #C8A010097)

### March Actions

**Jeremiah Richard Fink (CRD #3173563, Registered Representative, New Lenox, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 15 business days. In light of the financial status of Fink, no monetary sanction has been imposed. Without admitting or denying the allegations, Fink consented to the described sanction and to the entry of findings that he exercised discretion in the account of a public customer without having obtained prior written authorization from the customer and prior written approval of the account as discretionary by his member firm.

Fink's suspension began March 4, 2002, and will conclude at the close of business March 22, 2002. (NASD Case #C8A020005)

**James Howard Jones (CRD #731895, Registered Representative, Indianapolis, Indiana)** submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Jones reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of finding that he received a \$5,735 check from a public customer to purchase shares in a variable annuity product. The NASD found that Jones failed to apply the funds as directed, and without the knowledge and authorization of the customer, used the funds for his own benefit or for some purpose other than the benefit of the customer.

Jones' suspension began January 22, 2002, and will conclude at the close of business July 21, 2003. (NASD Case #C8A010037)

**Jose Luis Serrano, Jr. (CRD #2616498, Registered Representative, Chicago, Illinois)** was fined \$5,000 and suspended from association with any NASD member in all capacities for one year for forgery, and barred from association with any NASD member in any capacity for failing to respond. The fine shall be due and payable prior to Serrano's reentry into the securities business. The sanctions were based on findings that Serrano forged a public customer's name on a form without the authorization or consent of the customer. In addition, Serrano failed to respond to NASD requests for information.

Serrano's bar became effective January 7, 2002. (NASD Case #C8A010050)

#### District 8B - Cleveland

#### January Actions

**James Philip Arndts (CRD #1037280, Registered Representative, Troy, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Arndts consented to the described sanction and to the entry of findings that he sold promissory notes away from his member firm, for compensation, failed to provide his firm with detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions. (NASD Case #C8B010030)

**Jeffrey Jay Gollehon (CRD #1212338, Registered Representative, Whispering Pines, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 60 days, and required to disgorge \$1,200, plus interest, to public customers. Payment of the fine and satisfactory proof of payment of disgorgement, plus interest, must be made before Gollehon reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gollehon consented to the described sanctions and to the entry of findings that he sold promissory notes, for compensation, to public customers away from his member firm and failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Gollehon's suspension began December 3, 2001, and will conclude at the close of business January 31, 2002. (NASD Case #C8B010027)

**Donald Erwin Jones (CRD #870822, Registered Representative, Cincinnati, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$130,684.07, plus interest, in restitution to a public customer. Satisfactory proof of payment of restitution, with interest, must be made before Jones reassociates with

any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that he received \$192,684.07 from a public customer and executed a promissory note in favor of the customer for \$190,000. The NASD found that, under the terms of the note, Jones was required to repay the customer \$190,000, plus interest, but repaid only \$62,000 of the principal amount and failed to pay the remaining \$130,684.07 of the funds. In addition, the findings stated that Jones failed to respond to NASD requests for documents and information. (NASD Case #C8B010029)

**Carl Bernard Mahoney (CRD #2963667, Registered Representative, Northfield, Ohio)** was named as a respondent in an NASD complaint alleging that he received \$10,000 from a public customer for the purchase of an annuity and failed to purchase the annuity or apply the funds in any manner for the benefit of the customer. The complaint also alleges that Mahoney failed to respond to NASD requests for information. (NASD Case #C8B010024)

**Kevin Robert Smith (CRD #1133992, Registered Representative, Marion, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and required to disgorge \$10,240, plus interest, in commissions to public customers. Payment of the fine and satisfactory proof of payment of disgorgement, plus interest, must be made before Smith reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his member firm, failed to provide his firm with detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Smith's suspension began December 3, 2001, and will conclude at the close of business June 2, 2003. (NASD Case #C8B010028)

**Joseph Cyrus White, III (CRD #2779627, Registered Representative, Marion, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 90 days, and required to disgorge \$2,000, plus interest, in commissions to public customers. Satisfactory proof of payment of disgorgement with interest must be made before White reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, White consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his member firm and failed to provide his firm with detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

White's suspension is deemed served based upon a

suspension imposed by the Ohio Division of Securities.  
(NASD Case #C8B010032)

## February Actions

**William Carlson Nagy (CRD #2139804, Registered Representative, Burlington, Kentucky)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Nagy consented to the described sanctions and the entry of findings that he participated in the sale of promissory notes away from his member firm and failed to provide his firm with detailed written notice of the transactions, his role therein, and to secure approval from his firm to participate in the transactions.

Nagy's suspension began January 22, 2002, and will conclude at the close of business March 22, 2002. (NASD Case #C8B010035)

**John Fredrik Peters, II (CRD #1311252, Registered Representative, Loveland, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 60 days, and ordered to disgorge \$10,418.47, plus interest, in commissions to public customers. The fine and disgorgement must be paid before Peters reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Peters consented to the described sanctions and to the entry of findings that he sold promissory notes away from his member firm and failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Peters' suspension began January 22, 2002, and will conclude at the close of business March 22, 2002. (NASD Case #C8B010034)

## March Actions

**William Ferd Schaufert (CRD #412722, Registered Representative, Cincinnati, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Schaufert consented to the described sanctions and to the entry of findings that he engaged in a securities transaction away from his member firm and failed to provide his firm detailed written notice of the transaction, his role therein, and to obtain permission from the firm to engage in the transaction.

Schaufert's suspension began March 4, 2002, and will conclude at the close of business April 2, 2002. (NASD Case #C8B020002)

**David Phillip Scheyer (CRD #1362617, Registered Representative, Cincinnati, Ohio)** was named as a respondent in an NASD complaint alleging that he received funds totaling at least \$8,459.01 from members of the public, representing insurance premium payments, and failed to apply the payments to the applicable policies or in any other manner for the benefit of the members of the public. The complaint also alleges that Scheyer failed to respond to NASD requests for information. (NASD Case #C8B020001)

District 9 - Delaware, Pennsylvania, West Virginia, District of Columbia, Maryland, and New Jersey

District 9A - Philadelphia

## January Actions

**James Patrick Bauer (CRD #1902320, Registered Representative, Bethlehem City, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bauer consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #C9A010046)

**Joseph Michael Cileone, III (CRD #4264848, Associated Person, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Cileone reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cileone consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on his Form U-4.

Cileone's suspension will begin January 22, 2002, and will conclude at the close of business February 4, 2002. (NASD Case #C9A010050)

**Edward Miller Crowley (CRD #802611, Registered Representative, Toms River, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Crowley consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide his member firm with detailed written notice of the transactions, his role therein, and whether he might receive compensation.

Crowley's suspension began December 17, 2001, and will conclude at the close of business January 15, 2002. (NASD Case #C9A010048)

**Jeffrey Lee Farley (CRD #1891240, Registered Representative, Lutherville, Maryland)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Farley received and used

for his own benefit funds taken from the account of his member firm. (NASD Case #C9A000038)

**Brian Henry Thomas Harbold (CRD #2903625, Registered Representative, Pittsburgh, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Harbold reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Harbold consented to the described sanctions and to the entry of findings that he sold shares of IPOs to public customers, and in connection with the sale of alleged shares of IPOs, Harbold negligently misrepresented that the firm offering the IPOs had acquired these shares through agreements with member firms when in fact there were no agreements with these firms and the shares in the IPOs were never acquired.

Harbold's suspension began December 17, 2001, and will conclude at the close of business January 30, 2002. (NASD Case #C9A010025)

**Juan Francisco Rivera, Jr., (CRD #2023380, Registered Representative, Allentown, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Rivera reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rivera consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on a Form U-4.

Rivera's suspension began December 17, 2001, and will conclude June 16, 2002. (NASD Case #C9A010049)

**Esa Suonborai (CRD #4258397, Registered Representative, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Suonborai reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Suonborai consented to the described sanctions and to the entry of findings that he failed to respond in a timely manner to NASD requests for information.

Suonborai's suspension will begin January 22, 2002, and will conclude at the close of business February 20, 2002. (NASD Case #C9A010051)

## February Actions

**Thomas J. Braden (CRD #2729803, Registered Representative, Toms River, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was

fined \$5,000, ordered to pay \$8,250 in disgorged commissions in partial restitution to public customers, and suspended from association with any NASD member in any capacity for 15 months. Payment of the fine and satisfactory proof of payment of the disgorgement is required before Braden reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Braden consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Braden's suspension began February 4, 2002, and will conclude May 3, 2003. (NASD Case #C9A020002)

**Edward Leo Christensen (CRD #1027027, Registered Representative, Johnstown, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Christensen consented to the described sanction and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed written notice of the transactions and his role therein, and to receive permission from the firm to engage in the transactions. The findings also stated that Christensen failed to respond to an NASD request to appear and provide testimony. (NASD Case #C9A010052)

**Robert Allen Evans (CRD #2949332, Registered Representative, Greensburg, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to disgorge \$64,000 in commissions in partial restitution to customers. Satisfactory proof of payment of restitution must be made before Evans reassociates with any NASD member. Without admitting or denying the allegations, Evans consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. (NASD Case #C9A020001)

**Edward Hossein Haghani (CRD #3055635, Registered Representative, King of Prussia, Pennsylvania)** was named as a respondent in an NASD complaint alleging that he caused an unauthorized withdrawal of \$650 from the bank account of a public customer and used the funds for his own personal financial benefit. The complaint also alleges that Haghani failed to respond to NASD requests for information. (NASD Case #C9A020003)

**Michael James Kincaid (CRD #2054052, Registered Representative, Boomer, West Virginia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, ordered to disgorge \$6,226.12, plus interest, to public customers, and suspended from association with any NASD member in any capacity for two years. Payment of the fine and satisfactory proof of payment of the disgorgement is required before Kincaid reassociates with any NASD member following the suspension or before requesting relief from any

statutory disqualification. Without admitting or denying the allegations, Kincaid consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with prior detailed written notice of the transactions.

Kincaid's suspension began February 4, 2002, and will conclude at the close of business February 3, 2004. (NASD Case #C9A010054)

**Frederick Max Long (CRD #2333378, Registered Representative, Catawissa, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Long consented to the described sanction and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions and his role therein, and failed to state whether he had received, or might receive, selling compensation. The findings also stated that Long failed to respond to an NASD request for information. (NASD Case #C9A010053)

**Thomas Paul Morris (CRD #1395018, Registered Representative, Drexel Hill, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$355,944 in restitution to public customers. Satisfactory proof of payment of restitution must be made before Morris reassociates with any NASD member. Without admitting or denying the allegations, Morris consented to the described sanctions and to the entry of findings that he received \$355,944 from public customers for the purpose of making investments and, instead, deposited the funds into bank accounts that he controlled, and converted the funds to his own use and benefit without the customers' knowledge or consent. (NASD Case #C9A010055)

**Brent Allen Nelson (CRD #3026585, Registered Principal, Vienna, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 business days and required to disgorge \$14,500 in commissions earned. Without admitting or denying the allegations, Nelson consented to the described sanctions and to the entry of findings that he sold alleged shares of initial public offerings (IPOs) to public customers, and in connection with the sale of alleged shares of the IPOs, Nelson negligently misrepresented that the firm offering the IPOs had acquired the shares through agreements with member firms when, in fact, there were no agreements with these firms and the shares in the IPOs were never acquired.

Nelson's suspension began January 22, 2002, and will conclude at close of business March 6, 2002. (NASD Case #C9A010026)

**Thomas Andrew Winnicki (CRD #1513199, Registered Representative, Dickson City, Pennsylvania)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay \$20,000, plus interest, in disgorgement of commissions in partial restitution to public customers. Satisfactory proof of payment of disgorgement must be made before Winnicki reassociates with any NASD member. Without admitting or denying the allegations, Winnicki consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. The findings also stated that Winnicki offered and sold securities to public customers without having a reasonable basis for believing that such transactions were suitable for the customers based upon their financial situation, investment objectives, and needs. (NASD Case #C9A010011)

### March Actions

**Luther Allen Hanson (CRD #1956960, Registered Representative, Charlestown, West Virginia)** was fined \$79,105.62, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam as a general securities representative within six months. The NAC imposed the sanctions following the review of an OHO decision. The sanctions were based on findings that Hanson engaged in private securities transactions without providing prior written notice to, and obtaining written approval from, his member firm.

Hanson's suspension began January 21, 2002, and will conclude July 20, 2002. (NASD Case #C9A000027)

**Linda Lee Kangur (CRD #4351780, Associated Person, West Chester, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Kangur reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kangur consented to the described sanctions and to the entry of findings that she willfully failed to disclose a material fact on a Form U-4.

Kangur's suspension began February 19, 2002, and will conclude at the close of business April 1, 2002. (NASD Case #C9A020004)

### District 9B - New Jersey

#### January Actions

**Gregory Caulfield Gaydos (CRD #2431680, Registered Representative, South Plainfield, New Jersey)** was barred from association with any NASD member in any capacity. The

sanction was based on findings that Gaydos failed to respond to an NASD request for information. (NASD Case #C9B010049)

**George Robert Gonzalez (CRD #1266143, Registered Representative, Pompton Lakes, New Jersey)** was named as a respondent in an NASD complaint alleging that he recommended and effected securities transactions in the accounts of public customers without having reasonable grounds for believing the recommendations and subsequent transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs. (NASD Case #C9B010093)

**Michael Goras (CRD #2093841, Registered Representative, Hackensack, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Goras reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Goras consented to the described sanctions and to the entry of findings that he engaged in outside business activities without prior written notice to, or approval from, his member firm.

Goras' suspension began January 7, 2002, and will conclude at the close of business January 6, 2003. (NASD Case #C9B010101)

**Ronald M. Roth (CRD #1785602, Registered Representative, Dix Hills, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Roth reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Roth consented to the described sanctions and to the entry of findings that he submitted, or caused to be submitted, applications for life insurance that falsely listed on the Agent's Reports and/or Participation Statements accompanying the applications, the names of agents who had purportedly performed work on these policies, when, in fact, the agents identified thereon had not performed any such work. The findings also stated that Roth submitted life insurance applications in the names of fictitious individuals.

Roth's suspension began January 7, 2002, and will conclude at the close of business January 6, 2004. (NASD Case #C9B010097)

### February Actions

**John Joseph Cioffoletti (CRD #2066033, Registered Representative, Fairhaven, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cioffoletti

consented to the described sanction and to the entry of findings that while associated with a former member firm, he participated in several fraudulent schemes to manipulate the stock price of various companies and fraudulently induced investors to buy and hold such securities. The findings also stated that Cioffoletti entered a guilty plea to multiple counts of securities fraud conspiracy and securities fraud. (NASD Case #C9B010102)

**Sean Kathenes (CRD #2278583, Registered Representative, Verona, New Jersey)** was named as a respondent in an NASD complaint alleging that he executed unauthorized transactions in a public customer's account without the prior knowledge, authorization, or consent of the customer. (NASD Case #C9B010108)

**Steven Marc Simmons (CRD #2957967, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Simmons consented to the described sanctions and to the entry of findings that he exercised discretion in the account of a public customer by purchasing shares of stock without obtaining prior written authorization from the public customer and prior written acceptance of the account as discretionary by his member firm.

Simmons' suspension began February 4, 2002, and will conclude at the close of business April 4, 2002. (NASD Case #C9B010109)

### March Actions

**Richard Theodore Bredhoff (CRD #1425420, Registered Representative, East Windsor, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bredhoff consented to the described sanction and to the entry of findings that he effected the sale of unregistered shares of common stock to his member firm's customers. The NASD also found that Bredhoff, on behalf of a member firm, sold shares of a penny stock prior to receiving a manually executed and dated written statement from any of the unaccredited investors. The findings also stated that a member firm, acting through Bredhoff, utilized the instrumentalities of interstate commerce to conduct a securities business while failing to maintain its minimum required net capital. Furthermore, the NASD found that a member firm, acting through Bredhoff, filed a false and misleading FOCUS report and permitted individuals to engage in the investment banking or securities business and/or function as representatives and/or principals with the firm without properly qualifying and/or registering in the appropriate capacities. In addition, the findings stated that Bredhoff failed to respond completely to NASD requests for documents and information. (NASD Case #C9B020005)



**Pat James Cenicola (CRD #855316, Registered Representative, Hackensack, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$54,000 in disgorgement of commissions in partial restitution to the customers. The restitution amounts must be paid before Cenicola reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cenicola consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. (NASD Case #C9B020003)

**Anthony Francis DeCarlo (CRD #2568723, Registered Representative, Woodbridge, New Jersey)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, DeCarlo consented to the described sanctions and to the entry of findings that he reimbursed a public customer for the surrender charge incurred without the knowledge or approval of his member firm. The NASD also found that DeCarlo provided false and/or misleading testimony during an NASD on-the-record interview.

DeCarlo's suspension began March 4, 2002, and will conclude at the close of business March 3, 2003. (NASD Case #C9B010085)

**Daren John DeLuca (CRD #1675213, Registered Representative, Howell, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$27,000, representing disgorgement of net commissions, and suspended from association with any NASD member in any capacity for six months. The fine must be paid before DeLuca reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, DeLuca consented to the described sanctions and to the entry of findings that he exercised control over the account of a public customer and effected numerous and excessive securities transactions in the account, in a manner that was inconsistent with the customer's investment objectives. The NASD found that DeLuca recommended and engaged in purchase and sale transactions in the account of a public customer and did not have reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customer on the basis of her financial situation, investment objectives, and needs.

DeLuca's suspension began February 19, 2002, and will conclude August 18, 2002. (NASD Case #C9B020001)

**Dennis A. Dudnik (CRD #2805579, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,610, including the disgorgement of \$110 in commissions received, and suspended from association with any NASD member in any capacity for 20 days. Without admitting or

denying the allegations, Dudnik consented to the described sanctions and to the entry of findings that he failed to execute a public customer's order to sell shares of stock. The NASD also found that Dudnik purchased and sold shares of stocks in the accounts of public customers without their authorization.

Dudnik's suspension began February 19, 2002, and concluded March 10, 2002. (NASD Case #C9B020004)

**Dmitry Gorodetsky (CRD #3074712, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,185, including the disgorgement of \$185 of commissions received, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Gorodetsky consented to the described sanctions and to the entry of findings that he failed to execute a public customer's order to sell shares of stock. The NASD also found that Gorodetsky purchased and sold shares of stocks in the accounts of public customers without their authorization.

Gorodetsky's suspension began March 4, 2002, and will conclude at the close of business April 2, 2002. (NASD Case #C9B020004)

**Nicholas Nicolaou (CRD #2901449, Associated Person, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Nicolaou consented to the described sanction and to the entry of findings that he engaged in the investment banking or securities business and/or functioned as a representative and/or principal with a former member firm without properly qualifying and/or registering in the appropriate capacities. (NASD Case #C9B020007)

**Michael Pizzulli (CRD #2478300, Registered Representative, Millstone, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, including the disgorgement of \$230 in commissions earned, and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Pizzulli consented to the described sanctions and to the entry of findings that he executed an unauthorized purchase transaction of shares of stock in the account of a public customer, without the customer's prior knowledge or consent.

Pizzulli's suspension began March 4, 2002, and concluded at the close of business March 8, 2002. (NASD Case #C9B020008)

**Nick James Spatola (CRD #3053271, Associated Person, Morganville, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spatola consented to the described sanction and to the entry of findings that he engaged in the investment banking or securities business

and/or functioned as a representative and/or principal with a former member firm without properly qualifying and/or registering in the appropriate capacities. (NASD Case #C9B020006)

**Genifer Claudia St. Ange (CRD #2615002, Associated Person, Union, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before St. Ange reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, St. Ange consented to the described sanctions and to the entry of findings that she altered an annuity application for a public customer by taking an annuity application that the customer had completed for an earlier annuity investment and changing the information thereon and submitting such application for processing without the customer's knowledge or consent.

St. Ange's suspension began February 19, 2002, and will conclude at the close of business February 19, 2003. (NASD Case #C9B020002)

District 10 - The five boroughs of New York City, and Long Island

### January Actions

**Michael Alexander Bufano (CRD #3199805, Associated Person, Bronx, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Bufano removed two blank checks from the checkbook of a member firm with which he was associated, filled out each check for \$1,000, and cashed the checks, converting the \$2,000 for his own personal use and benefit without the firm's knowledge, authorization, or consent. The NASD also found that Bufano forged the signature of an authorized signatory employed by the firm on each check. In addition, Bufano failed to respond to NASD requests for information. (NASD Case #C10010087)

**Global Capital Markets, LLC (CRD #16191, Melville, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and the entry of findings that it employed an individual who was statutorily disqualified due to a felony conviction. (NASD Case #C10010147)

**Investex Securities Group, Inc. (CRD #30094, New York, New York) and Frank John Somma (CRD #1186283, Registered Principal, Holmdel, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Somma, failed to timely report to the NASD statistical and summary information regarding written customer complaints, and failed to

establish, maintain, and enforce written supervisory procedures designed to reasonably achieve compliance with the NASD rule regarding customer complaint reporting requirements. (NASD Case #C10010138)

**Vincent Joseph Puma (CRD #2358356, Registered Principal, Freehold, New Jersey)** was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Puma effected an unauthorized transaction in the account of a public customer.

Puma has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C10000122)

**Louis Ronald Rosenwein (CRD #715625, Registered Representative, Bayside, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Rosenwein consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of a public customer without prior written authorization from the customer to exercise discretion or having the accounts accepted, in writing, as discretionary by his member firm.

Rosenwein's suspension began January 7, 2002, and concluded at the close of business January 11, 2002. (NASD Case #C10010139)

**Todd Mitchell Spehler (CRD #1255835, Registered Principal, Bellmore, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spehler consented to the described sanction and to the entry of findings that he failed to testify truthfully, accurately, non-deceptively, and/or completely during an NASD on-the-record interview. The findings also stated that a member firm, acting through Spehler, filed an MC-400 with the NASD that contained false, misleading, inaccurate, or incomplete information regarding an individual's job functions and role during his association with the firm and permitted this individual to become associated with the firm without the permission of the SEC and NASD when the firm and Spehler knew, or should have known, that the individual was subject to statutory disqualification. The NASD also found that the member firm, acting through Spehler, failed to register the individual as a representative when the individual was engaged in activities that required registration as a representative, and also failed to register the individual as a principal when he was engaged in activities that required registration as a principal.

In addition, the NASD found that the member firm, acting through Spehler, failed to report to the NASD that it had become associated in business and financial activities with an individual subject to statutory disqualification, and failed to file with the SEC an amendment to its Form BD correcting an inaccuracy that the individual had become a control person of the firm. Furthermore, the member firm, acting through

Spehler, failed to implement, maintain, and enforce an effective supervisory system that would have enabled the firm to comply with federal securities laws and NASD rules to detect and prevent the above violations. Moreover, the firm, acting through Spehler, failed to establish, maintain, and enforce written procedures to address the qualifications of, and registration process for, associated persons reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. (NASD Case #C10990158)

**Todd Mitchell Spehler (CRD #1255835, Registered Principal, Bellmore, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spehler consented to the described sanction and to the entry of findings that a member firm, acting through Spehler, conducted a securities business while failing to comply with the minimum net capital requirements and failed to prepare and maintain accurate books and records. The findings also stated that the member firm, acting through Spehler, failed to file accurate FOCUS reports with the NASD. (NASD Case #C10000044)

**Worldco, L.L.C. (CRD #24673, New York, New York) and Terry Thomas Maloney (CRD #2612384, Registered Principal, Princeton Junction, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. The firm was fined an additional \$175,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Maloney, failed to adequately monitor, calculate, and/or enforce day-trading margin maintenance requirements for a prime brokerage account of an institutional customer as required by the NASD, in that the firm failed to monitor and/or calculate whether the account exceeded day-trading buying power. (NASD Case #C10010142)

## February Actions

**Ciro Bocchetti (CRD #2838866, Registered Representative, Merrick, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for three months, and required to follow special supervisory requirements in the event of his association with another member firm for 12 months from the date of his reassociation. Bocchetti shall not be permitted to continue such association unless the firm has adopted and implemented compliance programs and procedures that include monitoring his conversations with public customers on a random, silent basis, and monitoring all incoming and outgoing correspondence between Bocchetti and public customers to insure compliance with NASD rules, regulations, and federal securities laws. The fine must be paid before Bocchetti reassociates with any NASD member following the suspension. Without admitting or denying the allegations, Bocchetti consented to the described sanctions

and to the entry of findings that in a phone call involving a potential public customer, he used a fictitious name to identify himself and falsely represented himself as a compliance officer with his member firm.

Bocchetti's suspension began February 4, 2002, and will conclude at the close of business May 3, 2002. (NASD Case #C10010163)

**Eugene Grant Boyle (CRD #4195875, Associated Person, Island Park, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Boyle consented to the described sanction and the entry of findings that he willfully failed to disclose material facts on a Uniform Application for Securities Industry Registration or Transfer Form (U-4). (NASD Case #C10010150)

**Mario Buccaran (CRD #2610271, Registered Representative, Long Island City, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before Buccaran reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Buccaran consented to the described sanctions and to the entry of findings that he forged the signature of a public customer on a flexible life insurance illustration example without the customer's knowledge, authorization, or consent.

Buccaran's suspension began February 4, 2002, and will conclude May 4, 2002. (NASD Case #C10010161)

**Michael Stephen DaSaro (CRD #1918044, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, DaSaro consented to the described sanction and the entry of findings that he converted \$2,100 of a public customer's funds intended to be applied as premiums towards the customer's insurance policy maintained at his member firm for his own personal use and benefit without the prior knowledge, authorization, or consent of the customer. (NASD Case #C10010165)

**Robert Fitzpatrick (CRD #842159, Registered Principal, Westport, Connecticut)** was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for five business days. The Securities and Exchange Commission (SEC) imposed the sanctions following appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that Fitzpatrick failed to respond in a timely manner to NASD requests to provide documents.

Fitzpatrick has appealed this decision to the Court of Appeals, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C10970176)

**Matthew James Gervasio (CRD #2844164, Registered Representative, West Islip, New York)** was named as a respondent in an NASD complaint alleging that he received \$366,168.55 from public customers to be deposited in their accounts at his member firm, failed to deposit the funds as instructed, and, without the prior knowledge, authorization, or consent of the customers, deposited the checks into accounts at his firm for his own personal use or benefit. The complaint also alleges that Gervasio received silver bars valued at approximately \$8,500 from a public customer to be deposited into a safe deposit box at his member firm and, without the prior knowledge, authorization, or consent of the customer, converted the silver bars for his own personal use and benefit. In addition, the complaint alleges that Gervasio failed to respond to an NASD request to submit a written response to a public customer's complaint. (NASD Case #C10010157)

**Michael John Halkitis (CRD #2246940, Registered Principal, Astoria, New York)** and Hugh Daniel Dunn, Jr. (CRD #2219252, Registered Principal, Town of Wallkill, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were each fined \$2,500 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they completed and executed Forms U-4 and failed to indicate that they were engaged as officers and/or proprietors of a business other than that of their member firm.

Halkitis' suspension began January 22, 2002, and concluded at the close of business January 28, 2002. Dunn's suspension began January 29, 2002, and concluded at the close of business February 4, 2002. (NASD Case #C10010152)

**John Joseph Kenny (CRD #2122478, Registered Principal, Hoboken, New Jersey)** was named as a respondent in an NASD complaint alleging that he executed the sale of shares of stock from the joint account of public customers without their prior knowledge, authorization, or consent. The complaint also alleges that Kenny failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10010158)

**Leonard Vincent Lombardo (CRD #2401363, Registered Representative, Edison, New Jersey)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lombardo engaged in material misrepresentations and omissions of fact in the sale of securities to public customers. Lombardo made optimistic predictions as to price, profit, and performance without disclosing negative information concerning the financial or operating condition of the companies issuing the stocks. The findings also stated that Lombardo engaged in unauthorized transactions in the accounts of public customers. (NASD Case #C10000006)

**Thomas Marion Scotton (CRD #1160247, Registered Representative, Willingboro, New Jersey)** was named as a respondent in an NASD complaint alleging that he effected the opening of an account at his member firm for a public customer and himself, with him serving as joint account holder with rights of survivorship; did not to discuss the opening of the joint account with anyone other than the customer prior to opening the account; and effected the transfer of holdings from an individual account to the joint account, thereby acquiring a direct financial interest in the holdings. The complaint also alleges that Scotton facilitated his designation as the beneficiary of an annuity contract, of which the public customer was the owner and annuitant, by completing a change of beneficiary form, and failed to discuss his designation as beneficiary with anyone other than the customer prior to the designation. In addition, the complaint alleges that Scotton shared directly or indirectly in the profits or losses of the joint account without contributing any money, being liable for any losses in the account, and was not an "immediate family member" as defined in NASD Conduct Rule 2330(f). (NASD Case #C10010156)

**Wolff Investment Group, Inc. (CRD #21930, New York, New York) and Patricia Ann Schaeen (CRD #412379, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$21,785, jointly and severally, which includes disgorgement of \$3,785 in commissions received. The firm was also fined an additional \$3,000, jointly and severally, with another individual. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Schaeen, failed to abide by the terms and conditions of the firm's restrictive agreement with the NASD by participating in a firm commitment underwriting as a selling group member when the agreement permitted the firm to participate in underwritings on a best-efforts basis only; by engaging in municipal securities transactions when the agreement did not permit the firm to do so; and by receiving stock certificates from public customers when the firm was not permitted to accept such certificates.

The findings stated that the firm, acting through Schaeen, effected transactions in municipal securities without having paid an initial fee to the Municipal Securities Rulemaking Board (MSRB) and without having a qualified municipal securities principal at the firm. The NASD also found that the firm, acting through Schaeen, allowed an individual to act in the capacity of a general securities principal while not registered in that capacity with the NASD, and failed to report to the NASD a customer settlement agreement in an amount exceeding \$25,000. In addition, the NASD found that the firm, acting through Schaeen, failed to comply with the Firm Element of the NASD's Continuing Education Requirement by failing to conduct a needs analysis, to prepare a training plan, and to implement its training plan. Furthermore, the findings stated that the firm conducted a securities business while failing to maintain the minimum required net capital. (NASD Case #C10010136)

## March Actions

**Stephen Daniel Carcaterra (CRD #2674226, Registered Representative, Seabright, New Jersey)** was suspended from association with any NASD member in any capacity for 30 business days for engaging in private securities transactions and barred from association with any NASD member in any capacity for failure to appear. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Carcaterra participated in a private securities transaction without giving his member firm prior written notice. The findings also stated that Carcaterra failed to respond to an NASD request to appear for an on-the-record interview.

Carcaterra's bar became effective December 13, 2001. (NASD Case #C10000165)

**Vernard Benny Green, Jr. (CRD #2831764, Registered Representative, Brooklyn, New York)** was named as a respondent in an NASD complaint alleging that he made purchases in the individual retirement accounts of public customers without reasonable grounds for believing that the purchases were suitable for the customers on the basis of their investment objectives, other security holdings, and financial situation and needs. The complaint also alleges that, in connection with the purchase and sale of securities in the accounts of public customers, Green, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit. In addition, the complaint alleges that Green effected transactions in, or induced the purchase or sale of, securities by means of a manipulative, deceptive, or other fraudulent device or contrivance. Furthermore, the complaint alleges that Green failed to respond to NASD requests to provide documents and/or information. (NASD Case #C10010164)

**Chet C. Harris (CRD #2770791, Registered Representative, Brooklyn, New York)** was named as a respondent in an NASD complaint alleging that, in connection with the sale and purchase of securities, Harris, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit. The complaint also alleges that Harris effected transactions in, or induced the purchase or sale of, securities by means of a manipulative, deceptive, or

other fraudulent device or contrivance. (NASD Case #C10010166)

**Magna Securities Corp. (CRD #30935, New York, New York) and Patricia Ann Winans (CRD #1526364, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$22,500, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and the entry of findings that the firm, acting through Winans, permitted individuals to act in a capacity that required registration while their registration status with the NASD was inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education Requirement. The findings also stated that the firm, acting through Winans, failed to complete a training needs analysis and to develop a written training plan as required by the Firm Element of the NASD's Continuing Education Requirement. (NASD Case #C10020005)

**Timothy Joseph O'Hare (CRD #2350627, Registered Representative, Long Beach, New York)** was named as a respondent in an NASD complaint alleging that he effected transactions in the joint account of public customers without their prior knowledge, authorization, or consent. (NASD Case #C10020004)

**Douglas Adam Sheinberg (CRD #1912229, Registered Representative, Del Ray Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sheinberg consented to the described sanction and to the entry of findings that he effected transactions in the account of public customers without their prior knowledge, authorization, or consent. (NASD Case #C10020008)

District 11 - Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and New York (except for the counties of Livingston, Monroe, and Steuben; the five boroughs of New York City; and Long Island)

## January Actions

**John Edward Letterio (CRD #1420688, Registered Representative, Marshfield, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Letterio reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Letterio consented to the described sanctions and to the entry of findings that he willfully failed to update his Form U-4 to disclose material information.

Letterio's suspension began January 7, 2002, and will conclude on April 6, 2002. (NASD Case #C11010037)

**Amit Mathur (CRD #2532770, Registered Principal, Shrewsbury, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mathur consented to the described sanction and to the entry of findings that he failed to provide prompt written notice to his member firm of his involvement in a family-owned business, which was outside the scope of his employment with the firm for which he received compensation. The findings also stated that Mathur failed to respond to NASD requests for information. (NASD Case #C11010038)

**Michael Paul Siegel (CRD #2871429, Registered Principal, Manchester Center, Vermont)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Siegel consented to the described sanction and to the entry of findings that he made inappropriate use of funds while registered at a member firm. (NASD Case #C11010036)

### February Actions

**Michael Steven Brier (CRD #2076021, Registered Representative, Providence, Rhode Island)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Brier consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on a Form U-4.

Brier's suspension began January 22, 2002, and will conclude April 21, 2002. (NASD Case #C11010040)

**Joan Ann Brown (CRD #1057438, Registered Representative, Skaneateles, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that she failed to respond to an NASD request to appear for an on-the-record interview. (NASD Case #C11020004)

**David Robert Lippa, Jr. (CRD #1696616, Registered Representative, Unadilla, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$484,000, plus interest, in restitution to public customers. The restitution must be paid before Lippa reassociates with any NASD member or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Lippa consented to the described sanctions and to the entry of findings that he was engaged in private securities transactions without prior written notice to, or approval from, his member firm. The NASD also found that Lippa converted for his own use and benefit portions of the

funds he received from public customers who purchased the private securities transactions from him. (NASD Case #C11010042)

**Edward Nial Weeks, Jr. (CRD #2351808, Registered Representative, Poughkeepsie, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$6,500, of which \$1,100 represents disgorgement of commissions, suspended from association with any NASD member in any capacity for six months, and ordered to pay \$65,000, plus interest, in restitution to public customers. The fine and restitution must be paid before Weeks reassociates with any NASD member or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Weeks consented to the described sanctions and to the entry of findings that he recommended that public customers purchase securities that resulted in highly concentrated positions in certain speculative stocks in their accounts. The NASD found that the purchase of these speculative stocks resulted in a loss in the customers' accounts of approximately \$65,000.

Weeks' suspension began February 4, 2002, and will conclude August 3, 2002. (NASD Case #C11020001)

### March Actions

**Anthony Salvatore Socci (CRD #1863263, Registered Representative, Trumbull, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Socci consented to the described sanctions and to the entry of findings that, without the knowledge or consent of a public customer, he forged the customer's signature to a form, authorizing an insurance company to debit the customer's checking account for the purpose of paying insurance premiums.

Socci's suspension began February 19, 2002, and will conclude May 18, 2002. (NASD Case #C11020005)

## Enforcement Department

### January Actions

**Gregory Michael Fabrizio (CRD #2349994, Registered Representative, Old Bridge, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 business days, and required to pay \$8,526, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Fabrizio consented to the described sanctions and to the entry of findings that he engaged in excessive trading and unsuitable recommendations in the account of a public customer in order to increase the buying power of the account and his commissions.

Fabrizzi's suspension began January 7, 2002, and will conclude at the close of business February 19, 2002. (NASD Case #CAF010029)

**Oleg Ferdman (CRD #2092949, Registered Principal, Brooklyn, New York) and Gregg Eli Bailer (CRD #2245653, Registered Representative, Brooklyn, New York)** were barred from association with any NASD member in any capacity for failure to appear. Ferdman was also fined \$225,000 and suspended from association with any NASD member in any capacity for 60 days for prohibited conduct during a distribution of securities. Ferdman's fine is due and payable prior to his re-entry into the securities industry. The sanctions are based on findings that Ferdman continuously made a market in, bid for, and induced others to purchase shares and warrants of a security while engaged in distributions of the company's shares. The findings also stated that Ferdman participated in the purchase and resale of shares to public customers while he was still participating in an aftermarket distribution in violation of the SEC Regulation M. In addition, Ferdman and Bailer failed to respond to NASD requests to appear for scheduled interviews.

Ferdman's and Bailer's bars became effective November 19, 2001. (NASD Case #CAF000040)

**Grace Patricia Stoneham (CRD #1068378, Registered Representative, San Francisco, California)** submitted an Offer of Settlement in which she was suspended from association with any NASD member in any capacity for 60 days and ordered to pay \$18,000 in restitution to public customers. In light of the financial status of Stoneham, no fine has been imposed. Satisfactory proof of payment of restitution must be made before Stoneham reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Stoneham consented to the described sanctions and to the entry of findings that she made material misrepresentations and omissions of material fact to public customers. The findings also stated that Stoneham made false price predictions to public customers without any reasonable basis for the prediction and failed to disclose the speculative nature of a stock issuer to the customers.

Stoneham's suspension began December 3, 2001, and will conclude at the close of business January 31, 2002. (CRD #CAF010009)

## February Actions

**The Hamilton-Shea Group, Inc. (CRD #37526, Pompano Beach, Florida) and Michael Thomas O'Hara (CRD #848213, Registered Principal, Topeka, Kansas).** The firm has been fined \$1,375,000 and expelled from NASD membership. In the event the firm attempts to become an NASD member, the fine must be paid and the firm must rescind penny stock transactions. O'Hara has been fined \$10,000 and barred from association with any NASD member in any principal capacity. The fine must be paid before O'Hara

reassociates with any NASD member. The sanctions are based on findings that the firm bid for, purchased, and attempted to induce others to purchase the securities of a common stock while acting as a distribution participant, and engaged in penny stock transactions without complying with penny stock rule disclosure and suitability requirements.

The findings also stated that the firm failed to report statistical and summary information to the NASD relating to written customer complaints received by the firm. In addition, the findings stated that the firm and O'Hara failed to develop adequate written supervisory systems and procedures with regard to the review of order tickets, trade reports, and securities receipt blotters while engaged in the sale of securities pursuant to Regulation M, and failed to develop such systems and procedures for the sale of penny stocks or the reporting of customer complaints. The NASD found that the firm, acting through O'Hara, failed to adequately supervise the trading activity of the firm's head trader. O'Hara also failed to perform his supervisory function by reviewing documents related to order tickets, trading blotters, trading reports, and securities receipt blotters. Furthermore, the firm, acting through O'Hara, engaged in interstate commerce to conduct a securities business while failing to maintain minimum net capital. (NASD Case #CAF000002)

**VTR Capital, Inc. n/k/a Fairchild Financial Group, Inc. (CRD #21404, New York, New York) and Edward Joseph McCune (CRD #1316826, Registered Principal, Haines City, Florida)** submitted Offers of Settlement in which the firm was expelled from NASD membership and McCune was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm acted as the lead managing underwriter for an initial public offering (IPO) and purchased shares from the selling security-holders unsolicited, and, within minutes, began re-selling the shares to retail customers on a solicited basis. The firm, acting through McCune, knowingly or recklessly failed to disclose, or caused the firm's registered representatives to fail to disclose, material information to public customers in connection with the offer, recommendation, or sale of the company's common stock, including that the firm and McCune had purchased a very large quantity of shelf-registered shares from the selling security-holders' stock at the opening of aftermarket trading; the price of the stock; that they were immediately recommending and reselling the shares to public customers at much higher prices; that as a result of these purchases and resales of the selling security-holder shares, the available public float was increased substantially; that the resales presented an immediate risk of dilution; and that the resales constituted a separate or secondary offering requiring the preparation and distribution of an amended or supplemental prospectus.

The findings also stated that the firm, acting through McCune, knowingly or recklessly, by the use of the means and instrumentalities of interstate commerce, or of the mails, employed devices, schemes, or artifices to defraud; made untrue statements of material facts or omitted to state

material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operated as a fraud or deceit upon any persons, in connection with the purchase or sale of securities. The NASD found that the firm, acting through McCune, conducted a secondary offering and failed to file certain information and documents with the NASD regarding the proposed terms and to obtain an opinion of "no objections" to the proposed terms and arrangements from the NASD, to disclose the amount of its compensation in a prospectus, and to comply with its undertakings with the NASD. Furthermore, the NASD found that the firm, acting through McCune, participated in the secondary offering in which the underwriting compensation was unfair and unreasonable in that the firm received total compensation that exceeded the maximum permissible under NASD guidelines by approximately \$1,303,380. (NASD Case #CAF010010)

### March Actions

**Jack Michael Ferraro (CRD #709674, Registered Principal, Scarborough, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for 180 days. Without admitting or denying the allegations, Ferraro consented to the described sanctions and to the entry of findings that he failed to provide written notice to his member firm that he had engaged in business activities, for compensation, outside the scope of his employment with his firm. The findings also stated that Ferraro failed to inform clients for whom he had discretionary trading authority and purchased shares of stock in three companies that he had helped raise money for, and had been compensated by, these companies.

Ferraro's suspension began February 19, 2002, and will conclude August 17, 2002. (NASD Case #CAF020003)

## Market Regulation Department

### January Actions

**Arcadia Securities, L.L.C. (CRD #44656, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to the Order Audit Trail System (OATS<sup>SM</sup>) any order data for its orders for equity securities traded on The Nasdaq Stock Market.<sup>®</sup> According to the findings, although the firm entered into an agreement with its reporting agent to submit OATS data in accordance with NASD Rule 6955, the firm's reporting agent improperly submitted OATS data under another firm's identification symbol rather than under that of the firm. The findings also stated that the firm's

supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS, in that the firm had no procedure by which it regularly monitored its OATS reporting agent to insure proper reporting on behalf of the firm. (NASD Case #CMS010174)

**Arnhold and S. Bleichroeder, Inc. (CRD #1101, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in its public quote, when each such order was at a price that would have improved the firm's bid or offer in each security, when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. (NASD Case #CMS010169)

**Bidwell & Company (CRD #10215, Portland, Oregon)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures to achieve compliance with applicable securities laws and regulations concerning OATS. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it captured or entered orders for equity securities traded on The Nasdaq Stock Market into an electronic order routing or execution system, submitted to OATS reports with respect to equity securities traded on The Nasdaq Stock Market that were not in the electronic form prescribed by the NASD, and failed to correct or replace the subject reports when they were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web Site. The findings also stated that the firm did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010179)

**Herzog, Heine, Geduld, Inc. (CRD #2186, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size and thereby failed to honor its published quotation. (NASD Case #CMS010185)



**International Securities Corporation (CRD #36023, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions to Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) within 90 seconds after execution, constituting a pattern or practice of late reporting without exceptional circumstances. The findings also stated that the firm failed to designate as late transactions in over-the-counter equity securities, Nasdaq SmallCap<sup>SM</sup> securities, and Nasdaq National Market (NNM) securities within 90 seconds after execution to ACT. (NASD Case #CMS010178)

**McMahan Securities Co. L.P. (CRD #22123, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$17,500, and required to revise its written supervisory procedures relating to the supervision of its trading desk and compliance with applicable securities laws and regulations concerning ACT compliance, best execution, limit-order protection, order handling, one-percent rule, registration, trade reporting, Small Order Execution System<sup>SM</sup> (SOES<sup>SM</sup>), books and records, locked/crossed markets, SEC 21(a) report issues, short-sale compliance, and front running. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale orders in certain securities and failed to maintain a written record of the affirmative determination made for such orders; failed to provide written notification disclosing to its customer its correct capacity in the transaction; failed to show the correct time of entry and/or time of execution; failed to memorialize the volume of each component of the executions on brokerage order memorandum; failed to maintain legible time stamps for the execution of orders on the memorandum of brokerage orders; and executed short-sale orders and failed to mark the order tickets properly as short for those orders.

Furthermore, the NASD determined that the firm's written supervisory procedures did not accurately reflect the firm's actual supervisory system that was designed to achieve compliance with respect to the supervision of the firm's trading desk. Specifically, the firm's written supervisory procedures identified inaccurately the person responsible for supervising the firm's trading desk, and the firm supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations. The firm's supervisory system also did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance therewith; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010186)

**Merrill Lynch Professional Clearing Corp. (CRD #16139, Somerset, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and

fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report its short-interest positions in Nasdaq SmallCap securities to the NASD. (NASD Case #CMS010184)

**National Capital, LLC (CRD #26078, Oklahoma City, Oklahoma)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quote rules. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010194)

**NexTrade, Inc. (CRD #41087, Clearwater, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to OATS any order data for its orders for equity securities traded on the Nasdaq Stock Market; failed to transmit to OATS reports containing each applicable item of order information identified in NASD Marketplace Rule 6954; and transmitted to OATS inaccurate reports by transmitting execution reports rather than routing reports with respect to orders for equity securities traded on the Nasdaq Stock Market. The findings also stated that the firm did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS. Specifically, the NASD found that the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010181)

**Paragon Capital Markets, Inc. (CRD #18555, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of

findings that as a registered market maker in securities, an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The firm failed to execute the orders upon presentation and thereby failed to honor its published quotation. The findings also stated that the firm did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the firm quote rules. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010193)

**Olympic Trading & Investments, Inc., n/k/a NT Securities LLC (CRD #45694, Monroe, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to OATS reports containing each applicable item of order information identified in NASD Marketplace Rule 6954. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations, and NASD rules concerning OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010176)

**PenStar Trading, LLC (CRD #103719, Sarasota, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on The Nasdaq Stock Market that were not in the electronic form prescribed by the NASD, and after the reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web Site, the firm did not correct or replace the reports and, thus, failed to report such information to OATS correctly. The findings also stated that the firm submitted to OATS reportable order events that contained inaccurate, incomplete, or improperly formatted data. In addition, the NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations, and NASD rules concerning OATS. Specifically, the firm's supervisory system did not include written

supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010163)

**Elliott Steven Polatoff (CRD #1956658, Registered Representative, Far Rockaway, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$13,000, suspended from association with any NASD member in any capacity for three months, and required to pay \$1,856.25, plus interest, in restitution to member firms. Payment of the fine and proof of payment of restitution shall be prerequisites before reassociating with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Polatoff consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered priced limit orders in Nasdaq securities into an electronic communications network (ECN) at prices that he knew would improve the national best bid or offer (NBBO) in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. Furthermore, the NASD found that after entering such orders, Polatoff entered orders of such securities in his trading account because he knew that they would be routed to market makers whose automated execution systems were programmed to transact such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO, thereby enabling him to buy and sell shares of the securities at prices that were lower or higher than he would otherwise have been able to buy or sell shares of the securities. Moreover, the findings stated that immediately after he received the executions of the orders that he had entered in his trading account, Polatoff canceled priced limit orders that he had entered into the ECN.

Polatoff's suspension began January 7, 2002, and will conclude at the close of business April 5, 2002. (NASD Case #CMS010172)

**Rom-Bo Trading Co. (CRD #37554, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale transactions in certain securities, all of which were NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. (NASD Case #CMS010159)

**Alexander Namsik Scribner (CRD #2525381, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two months. The fine must be

paid before Scribner reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Scribner consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered priced limit orders in Nasdaq securities into an ECN at prices that he knew would improve, and were intended to improve, the NBBO in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. The findings also stated that after having entered such orders into the ECN, Scribner knowingly and intentionally entered orders to buy shares of such securities in his trading account at his member firm because he knew that they would be routed to market makers whose automated execution systems were programmed to buy such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO. The NASD determined that by knowingly and intentionally engaging in this course of conduct, Scribner bought shares of these securities at prices that were lower than he would otherwise have been able to buy shares of these securities, but for his entry of the orders into the ECN and immediately after he received the execution of the orders that he had entered in his trading account, he intentionally and knowingly canceled priced limit orders that he had entered into the ECN.

Scribner's suspension began November 19, 2001, and will conclude at the close of business January 18, 2002. (NASD Case #CMS010168)

**UBS PaineWebber, Inc. (CRD #8174, Weehawken, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,500, and required to revise its written supervisory procedures relating to transaction reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it incorrectly designated as late, to the Fixed Income Pricing System<sup>SM</sup> (FIPS<sup>SM</sup>), transactions in FIPS securities and failed to report the correct time of execution to FIPS for each transaction. The findings also stated that the firm failed to report to FIPS the correct bond identification symbol in one transaction in a FIPS security, double reported a transaction in a FIPS security, and failed to report to FIPS the correct unit price in transactions in FIPS securities and high-yield corporate debt securities. The findings also stated that the firm failed to report to FIPS the correct time of execution in transactions in high-yield corporate debt securities and failed to cancel in FIPS transactions in a high-yield corporate debt security. In addition, the NASD determined that the firm did not have a supervisory system that provided for supervision reasonably designed to achieve compliance with respect to the rules concerning the reporting of transactions in high-yield corporate debt securities to the NASD. (NASD Case #CMS010162)

**Wilson-Davis & Co., Inc. (CRD #3777, Salt Lake City, Utah)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning SEC Rule 15c2-11 and NASD Marketplace Rule 6740. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published quotations for OTC Equity Securities in quotation mediums that did not have in its records the documentation required by SEC Rule 15c2-11(a), and that it did not have a reasonable basis under the circumstances for believing that the information was accurate in all material respects or did not have a reasonable basis under the circumstances for believing that the sources of the information were reliable. Moreover, the quotations did not represent a customer's indication of unsolicited interest. The findings also stated that the firm failed to file a Form 211 with the NASD at least three business days before the firm's quotations were published or displayed in a quotation medium. The NASD also determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning SEC Rule 15c2-11 and NASD Marketplace Rule 6740. Specifically, the NASD found that the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010182)

**Bret Courtney Williams (CRD #1572726, Registered Representative, Manhattan Beach, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000, suspended from association with any NASD member in any capacity for 30 days, and required to pay \$2,543.75, plus interest, in restitution to member firms. The fine must be paid before Williams reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Williams consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered orders in Nasdaq securities into ECNs at prices that he knew would improve the NBBO in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. Furthermore, the NASD found that Williams, having entered such orders either into ECNs knowingly and intentionally, routed orders on behalf of his member firm's proprietary account, and sold shares of these securities at prices that were higher than he would otherwise have been able to buy or sell shares of these securities, but from his entry of the orders into the ECNs. Moreover, the findings stated that immediately after he received the executions of the orders that he had entered on behalf of his proprietary account, Williams canceled the orders that he had entered into the ECNs.

Williams' suspension will begin January 21, 2002, and will conclude at the close of business February 19, 2002. (NASD Case #CMS010166)

### February Actions

**Adams, Harkness & Hill, Inc. (CRD #1020, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$60,000, and required to pay \$59.38, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to execute orders fully and promptly, and executed short-sale transactions without reporting each of these transactions to ACT with a short-sale modifier. The NASD found that the firm failed to display immediately customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer for each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis amount in relation to the size associated with the firm's bid or offer in each such security. In addition, the NASD found that the firm, a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or ask quotations in The Nasdaq Stock Market that caused a locked or crossed market condition to occur in each instance.

The NASD also determined that an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size but the firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. In addition, the findings stated that the firm, as market maker in securities, locked or crossed the market during the pre-opening period and failed to immediately thereafter send a trade-or-move message through SelectNet® to the market participant whose quote it locked or crossed that was priced at the receiving market participant's quoted price, and failed to send a trade-or-move message through SelectNet when an aggregate size of at least 5,000 shares to all market participants whose quotes it locked/crossed. Furthermore, the findings stated that the firm was a party to a locked or crossed market condition prior to the market opening, received a trade-or-move message in each instance through SelectNet, and failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment within 30 seconds of receiving such messages, so that the market would have unlocked or uncrossed. (NASD Case #CMS010208)

**BNP Paribas Brokerage Services, Inc. (CRD #31394, King of Prussia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to timely report to Order Audit Trail System<sup>SM</sup> (OATS<sup>SM</sup>) reportable order events. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010203)

**Maple Securities U.S.A. Inc. (CRD #33947, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$17,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report its short-interest positions to the NASD. The findings also stated that the firm did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning short-interest reporting. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010199)

**Market Wise Securities, Inc. (CRD #45269, Broomfield, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures relating to OATS rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on The Nasdaq Stock Market® that were not in the electronic form prescribed by the NASD. The reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web Site. The firm did not correct or replace the subject reports and, thus, failed to report such information to OATS correctly.

The NASD found that the firm failed to report all applicable order information required to be recorded under the NASD Marketplace Rule 6954 to OATS for 25 business days during the review period. The findings also stated that the firm did not provide for supervision reasonably designed to achieve

compliance with respect to applicable securities laws and regulations concerning the OATS rules. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010200)

**Michael Joseph Markowski (CRD #844847, Registered Principal, Miami Beach, Florida) and Joseph F. Riccio (CRD #710502, Registered Representative, Palm Harbor, Florida).** Markowski was censured, fined \$300,000, and barred from association with any NASD member in any capacity, and Riccio was censured, fined \$250,000, and barred from association with any NASD member in any capacity. The U.S. Court of Appeals for the District of Columbia Circuit affirmed the sanctions following appeal of a September 2000 SEC decision. The sanctions were based on findings that Markowski and Riccio manipulated the market for securities underwritten by a firm and published non-bona fide bids for those securities. In addition, Markowski failed to comply with a restriction agreement between the firm and the NASD and refused to timely submit to an NASD investigative interview. (NASD Case #CMS920091)

**Momentum Securities, LLC (CRD #39293, Houston, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which it was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to OATS any order data for its orders for equity securities traded on The Nasdaq Stock Market and transmitted to OATS reports containing inaccurate data as to the proper account type code and the limit order display indicator with respect to orders for equity securities traded on The Nasdaq Stock Market. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS reporting. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010204)

**Schonfeld Securities, LLC (CRD #23304, Jericho, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures concerning ACT reporting, Small Order Execution System<sup>SM</sup> (SOES<sup>SM</sup>) trading, trade reporting, books and records, harassment of market participants, the prompt receipt and delivery of securities, SEC Rule 10a-1, OATS reporting, and best execution.

Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale orders in certain securities and failed to maintain a written record of the affirmative determination made for such orders.

The findings also stated that the firm failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt, or cross for transactions in eligible securities and failed to report the contra side executing broker in transactions in eligible securities. In addition, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010205)

**Tucker Anthony Incorporated (CRD #837, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$16,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in eligible securities to ACT with a short sale modifier, the correct number of shares, and the correct symbol indicating whether the firm executed the transactions in a principal or agency capacity. The findings also stated that the firm failed to display immediately the customer limit orders in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. (NASD Case #CMS010198)

## March Actions

**C. E. Unterberg, Towbin (CRD #24790, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, required to pay \$22,219.94, plus interest, in restitution to investors, and ordered to revise its written supervisory procedures concerning firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm, as a registered market maker in securities,

failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size, and upon presentment, failed to honor its published quotation. In addition, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quote compliance. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS020003)

**Global Capital Securities Corporation (CRD #16184, Englewood, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$17,500, and required to pay \$3,888.69, plus interest, in restitution to investors. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions; failed to report transactions in eligible securities to the Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) within 90 seconds after execution; failed to report an accurate execution price to ACT; and reported a nonexistent transaction to ACT. The findings also stated that the firm failed to show the correct time of execution and/or the correct time of entry on the memorandum of brokerage orders and failed to preserve for a period of not less than three years, the first two in an accessible place, the memorandum of brokerage orders. (NASD Case #CMS020011)

**Gruntal & Co., L.L.C. (CRD #372, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$42,500, required to pay \$928.13, plus interest, in restitution to customers, and required to revise its written supervisory procedures concerning the reporting of transactions in high-yield corporate debt securities to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT, last-sale reports of transactions in Nasdaq National Market (NNM) and Nasdaq SmallCap<sup>SM</sup> securities, and failed to designate through ACT such last-sale reports as late. The findings also stated that the firm failed to report to ACT the correct time of execution in transactions in NNM securities and failed to report to ACT a transaction in an NNM security that it was required to report. Furthermore, the NASD found that the firm failed to contemporaneously or partially execute customer limit orders in Nasdaq securities after it traded each security for its own market making account at a price that would have satisfied each customer's limit order; failed to use reasonable

diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions; and, when acting as a principal for its own account, failed to provide written notification disclosing to its customers the reported price.

The NASD also determined that the firm failed to display immediately customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer for each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis amount in relation to the size associated with the firm's bid or offer in each such security; when it acted as principal for its own account, failed to provide written notification disclosing to its customers the correct reported trade price and to disclose to its customers that it was a market maker in each such security; and failed to disclose on customer confirmations the correct symbol indicating whether the transactions were buy or sell transactions. The NASD also determined that the firm failed to provide written notification disclosing to its customers its correct capacity in the transactions; failed to provide written notification disclosing to its customers that the transaction was executed at an average price; failed to maintain a record of a customer confirmation; failed to report to ACT the correct symbol indicating whether the firm executed a transaction in an eligible security in a principal or agency capacity; and failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt, or cross for transactions in eligible securities.

In addition, the NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning trading and market making functions, best execution, the Limit Order Protection Interpretation, the Limit Order Display Rule, customer confirmation disclosure, the SEC's One Percent Rule, rules applicable to the Small Order Execution System, the rule applicable to locked or crossed markets, and the rules applicable to short sales and front running. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS020008)

**J. Alexander Securities, Inc. (CRD #7809, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$14,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to report to ACT the contra side executing broker

transactions in eligible securities. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the following: ACT compliance, best execution, limit order protection, limit order display, firm quote rule, the SEC's One Percent Rule, the registration of traders and supervisors, trade reporting, books and records, locked and crossed markets, pricing convention, size convention, coordination of quotes, late and inaccurate trade reporting, exchange of proprietary information, improper collaboration and coordination, the failure to honor quotes, harassment, short sales, and Order Audit Trail System (OATS). Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented. (NASD Case #CMS020004)

**J. Alexander Securities, Inc. (CRD #7809, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$40,000, and required to revise its written supervisory procedures with respect to trade reporting compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT, last-sale reports of transactions in NNM, Nasdaq SmallCap, and OTC Equity securities and failed to designate through ACT such last-sale reports as late. The findings also stated that the firm failed to report the time of execution through ACT; failed to show on memorandum late last-sale reports in NNM, Nasdaq SmallCap, and OTC Equity securities reported outside of normal market hours with the ".T" modifier; and failed to report the time of execution through ACT in last-sale reports in NNM, Nasdaq SmallCap, and OTC Equity securities reported more than 90 seconds after execution.

Furthermore, the NASD found that the firm failed to show the correct time of execution, the correct order entry time, the correct price of execution, the execution price, an order entry time, and that the orders were sales transactions. In addition, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning trade-reporting compliance. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules, a statement of the steps that such person should take to ensure compliance, a statement as to how often such person should take such steps, and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS020005)

**Roth Capital Partners, LLC (CRD #15407, Newport Beach, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to pay \$7,367, plus interest, in restitution to customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. (NASD Case #CMS020014)

**Sanders Morris Harris Inc. (CRD #20580, Houston, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size, and, upon presentment, failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quote compliance. Specifically, the firm's supervisory system did not include written supervisory procedures providing for a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS020001)

**The Third Market Corporation (CRD #30181, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$16,000, and required to revise its written supervisory procedures relating to short sales and OATS. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it purchased an eligible security at or below the price at which it held an unexecuted limited price order to purchase such security for a customer. The findings also stated that the firm failed to display immediately customer limit orders in its public quotation, when each such order was at a price that would have improved its bid or offer in each such security. Also, the NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning short sales and OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. Furthermore, the findings stated that the firm failed to synchronize and maintain the synchronization of its business clocks used for

recording the date and time of events that must be recorded pursuant to NASD By-Laws or rules to the time source designated by the NASD in conformity with the procedures prescribed by the NASD. (NASD Case #CMS020012)



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