

Regulatory & Compliance Alert

A PUBLICATION OF NASD REGULATION, INC.

14.1 SPRING 2000

NASD Public Disclosure Program Changes

On February 7, 2000, the Securities and Exchange Commission (SEC) approved proposed changes to National Association of Securities Dealers, Inc. (NASD®) Interpretive Material 8310-2 (IM-8310-2), the provision that governs the NASD's Public Disclosure Program (PDP or Program).

In summary, the approved changes clarify that, beginning in mid-March 2000, the NASD: (1) will release information about persons formerly associated with a member only for a two-year period following the termination of their registration with the NASD; (2) will release information about terminated persons and firms that is provided on the Form U-6 (the form regulators use to report regulatory actions), if such matters would be required to be reported on the Form U-4 or Form BD; and (3) will begin using automated disclosure reports, which will include verbatim information submitted by filers on uniform forms.

Continued on page 3

Series 55 May 1 Deadline Reminder

On May 1, 2000, any equity trader who has not passed the Series 55 examination will have to cease all trading activities in Nasdaq and/or over-the-counter equity securities. See page 12 for the full article.

1

contents

NASD REGULATION, INC.

1	COVER STORIES
	• NASD Public Disclosure Program Changes • NASDR Holds Open Forum With District Directors
7	ADVERTISING REGULATION
	• Improper Advertising Regarding Electronic And Day-Trading Services Result In Formal Disciplinary Actions
9	REGULATORY SHORT TAKES
	• SEC Authorizes Filing Of Actions To Recover Unpaid NASD Sanctions • Update On Supervision Of Off-Site Locations • Series 55 May 1 Deadline Reminder • Financial Operations Focus • Auditing Qualification Requirements Of SEC Rule 17a-5
16	MARKET REGULATION
	• SEC Provides Guidance To NASD Members Regarding The Use Of Average Price And Multiple Capacity Confirmations
18	QUALIFICATIONS/TESTING/CONTINUING EDUCATION
	• Testing Update • Certification Testing & Continuing Education Delivery Location List
23	NASD DISCIPLINARY ACTIONS
50	REGULATORY & COMPLIANCE ALERT INFORMATION

NASD Public Disclosure Program Changes, from page 1

Under this Program, the NASD discloses to the public certain information regarding the employment history, other business experience, and disclosure information of NASD members and their associated persons. The primary purpose of the Program is to help investors make informed choices about the individuals and firms with whom they may wish to do business. The changes approved by the SEC are intended to ensure that the NASD's disclosure practices are clearer and fairer to NASD members, associated persons, and the public.

Background

The NASD established its Public Disclosure Program in 1988 to provide investors with important information about the professional background, business practices, and conduct of NASD members and their associated persons. Recognizing the Program's value to investors, Congress passed legislation in 1990 requiring the NASD to establish and maintain a toll-free telephone number to receive inquiries regarding its members and their associated persons. In 1998, NASD RegulationSM began providing administrative information (*i.e.*, employment history, registration statuses) online via the NASD Regulation Web Site (www.nasdr.com). In 1999, NASD Regulation responded to close to one million inquiries through the Program.

The changes to the Program recently approved by the SEC do not include the display of disclosure information via the NASD Regulation Web Site. Disclosure reports will continue to be provided by e-mail and regular mail. The NASD,

however, continues to work with the SEC and Congress to seek the legislation that it believes is necessary in order to provide for the display of all disclosure information via the NASD Regulation Web Site. The changes approved by the SEC are intended to ensure that the NASD's disclosure practices are clearer and fairer to NASD members, associated persons, and the public. In particular, the changes clarify which persons are subject to the Program and what types of information are disclosed through the Program.

NASD Regulation also is changing the manner in which it provides disclosure reports about persons who are subject to the Program. Specifically, NASD Regulation will no longer prepare manual summaries of information to be disclosed pursuant to the Program. Instead, NASD Regulation is generating reports under the Program by drawing information directly from the Web CRDSM database. As discussed in more detail below, this change means that Public Disclosure Reports will include verbatim descriptions of events and comments that have been provided by registered representatives and firms on their respective uniform forms. Member firms should be cognizant of this change and should take appropriate steps to ensure that such forms do not contain confidential client information or offensive or potentially defamatory language. NASD Regulation reiterated in the rule filing, approved by the SEC, its current policy of not releasing Social Security numbers, home addresses, or physical description information through the Program. The changes to the Program are summarized in the next section.

Key Changes To IM-8310-2

Persons Subject To Disclosure Through The Program: NASD Regulation will release information regarding: (1) current and former NASD member firms; (2) persons currently associated with an NASD member; and (3) persons who have been associated with an NASD member within the preceding two years. The two-year period coincides with the period in which an individual can return to the industry without being required to requalify by examination and the initial period in which an individual remains subject to the NASD's jurisdiction.

Release Of Information Provided Via Form U-6: Before the rule change, NASD Regulation would not disclose information with respect to a firm or individual if it was filed after the termination of an individual or firm because once the individual or firm had been terminated, there was no longer a requirement to report the information. The rule change clarifies that NASD Regulation will release information provided on Form U-6, the form used by regulators to report disciplinary matters, if such matters would be required to be reported on the Form U-4 or Form BD, even if the individual or member firm is no longer registered. NASD Regulation believes that information reported on the Form U-6 is highly reliable because it is filed by federal and state securities regulators and self-regulatory organizations. NASD Regulation further believes that this information serves an important investor protection purpose; therefore, it will disclose such information about individuals and firms under the Program. Disclosure of such information about individuals will be subject to the two-year limitation discussed above, however.

Automated Disclosure Reports: NASD Regulation began generating reports from its Web CRD database in March 2000. These reports will be sent to requesters by regular or electronic mail. The automated reports will draw information from specified fields on the Web CRD database that parallel fields on the Forms U-4 and U-6. The automated reports will allow for more consistent disclosure of the information as it is reported to NASD Regulation and also will allow NASD Regulation to provide reports to investors more quickly. In addition, the automated reports allow the inclusion of comments submitted on the uniform forms (e.g., comments submitted by registered representatives on the Form U-4). Members should understand that, under this new approach, information submitted on uniform forms, including the Form U-4, will be disclosed verbatim in the Public Disclosure Reports. Member firms and/or registered persons responsible for submitting confidential client information or offensive or potentially defamatory language on such forms may be subject to civil liability or NASD regulatory sanctions.

NASD Regulation recognizes that it may receive complaints or objections to information or language that has been submitted on a uniform form. Upon receipt of such a complaint or objection, NASD Regulation intends to notify the filer of the objection or complaint, and provide the filer with an opportunity to amend the filing to remove the language in controversy. If the filer determines not to amend, NASD Regulation will apply a balancing test to weigh the value of the language in controversy for investor protection and completeness of disclosure of the reported information against the objector's asserted

privacy rights, concerns regarding offensive language, and/or defamation claims. Based on the outcome of this test, NASD Regulation may determine to redact information in question from a disclosure report. In such cases, NASD Regulation will inform a requester of a report that has had information redacted of the reasons for the redaction. NASD Regulation believes these changes enhance the Public Disclosure Program by clarifying NASD Regulation's disclosure policies and by making information available to investors in a more timely manner.

The release approving the rule changes (SEC Release No. 34-42402; File No. SR-NASD-99-45) may be viewed on the SEC Web Site at www.sec.gov/rules/sroindx.htm.

Questions about this article may be directed to NASD Regulation staff: Ann Bushey, at (301) 590-6389, or Rick Pullano, at (301) 212-3789.

NASDR Holds Open Forum With District Directors

At the October 20-22, 1999, NASD Regulation Fall Securities Conference held in Seattle, an open forum was conducted with NASD Regulation District Office Directors and home office executives. Conference attendees, primarily representatives of NASD members, asked a number of questions encompassing a variety of subjects. This article is the second in a two-part series to capture many of the questions and the answers provided during this session. Part 1 appeared in the Winter 1999 issue of the *Regulatory & Compliance Alert*. The forum was moderated by Daniel M. Sibears, Senior Vice President and Deputy, Member Regulation, and the District Directors participating in the forum were: James Dawson, Seattle District Office; Carla Romano, Chicago District Office; Jack Rosenfield, Kansas City District Office; Beth Owens, San Francisco District Office; Lani Woltmann, Los Angeles District Office; and Bernie Young, Dallas District Office.

Note that questions and answers have been edited for clarity and length. Considering the informal forum in which the answers were provided, readers should not rely on this article as definitive guidance or formal interpretive advice. Written requests for interpretive advice may be directed to the NASD Regulation Office of General Counsel at 1735 K Street, NW, Washington, DC 20006.

The Spring and Fall 2000 Securities Conferences will be held April 25-27 at the JW Marriott Hotel in Washington, DC; and November 15-17 at the Sheraton Palace Hotel in San Francisco. Please see the NASD Regulation Web Site, www.nasdr.com, for a Spring Conference brochure, registration form, and further details.

Q: What trend in violations are you seeing?

A: We have seen several conversions and misappropriation cases. We are also seeing more suitability issues, particularly with respect to

questions

variable annuity sales and switches. We've seen a rash lately of senior citizens being moved out of one variable annuity and into another.

We also continue to see a significant number of selling away cases, specifically promissory notes and cases where individuals seek to raise money for a new, outside business venture. And, written supervisory procedure deficiencies continue to surface, such as a line of business not being covered.

Q: How is NASD Regulation reviewing and examining variable annuity exchanges?

A: NASD Regulation reviews these exchanges on a case-by-case basis. Some of the things we take into account are: the age of the investor and the explanation on the firm; the cost involved; and exactly what benefit is added for the investor.

Q: Could you provide an update about the variable annuities sweep being conducted by NASDR?

A: Beginning in late 1998, we conducted a sweep, for lack of a better term, of the variable annuity area. We conducted examinations of main offices and, where necessary, branch offices. We found sales practice-related issues, including suitability and supervision problems. In some instances, we've found computerized systems that are supposed to review for supervision, but no individual ever looks at the applications prior to approval and processing.

Q: What abuses are we seeing with respect to insurance-related broker/dealers?

A: With insurance-related brokerages, the biggest concern is suitability. However, one significant concern is the misappropriation or conversion of money. Typically, what we see is an insurance salesperson who also serves as a securities salesperson. There are very different rules and procedures for handling customer moneys on the insurance side versus the broker/dealer side, and it is not unusual for the securities regulation to be ignored.

Q: Can you tell us about the NASD Institute for Professional Development?

A: The NASD Institute will formally rollout in May of 2000 with a one-week session at the Wharton School in Philadelphia. There will also be a one-week session at Wharton in November of 2000. Basically, if an individual applies for the certificate program, he or she will experience 60 hours of education and training at the Wharton School, in two separate one-week sessions. Additionally, the candidate will take 60 hours of courses offered through separate symposia on specific subject matter around the country. Upon successful completion of the 120 hours, the participant will be designated as a Certified Regulatory and Compliance Professional (CRCP). Also, the Institute's programs are available on a non-certificate basis.

Q: Do you think there will be one regulatory group for all markets?

A: We are currently exploring a variety of different options. Although it is difficult to

predict what the final structure will be, NASDR is reassessing its own structure to ensure that we can best serve investors and our members.

ADVERTISING REGULATION

Improper Advertising Regarding Electronic And Day-Trading Services Result In Formal Disciplinary Actions

NASD Regulation has issued notices reminding members that advertisements and sales literature about electronic and day-trading services must comply with all advertising rules.¹ Recently, NASDR sanctioned three firms and issued a formal complaint against a fourth firm for, among other things, failing to comply with advertising requirements in this area.²

These cases involve findings, and in one case allegations, of advertising rule violations in areas that NASDR has previously identified as those in which members need to exercise greater care with respect to their communications with the public. In these four cases, NASDR issued findings and allegations that publications on Web sites, radio and newspaper advertisements, press releases, and promotional circulars failed to provide a sound basis for evaluating the

services provided by the firms and included exaggerated and unwarranted statements that were potentially misleading in the following areas:

- ❖ **Access to markets:** Statements that exaggerated customers' ability to access the markets;
- ❖ **Immediate Executions:** References to fast and reliable executions or instantaneous executions, without disclosing that market volatility and volume may delay system access and trade execution;
- ❖ **Disclosures Regarding Risks:** References to the success of trading, without an adequate discussion of the risks and costs associated with an investment strategy that involves a high volume of trades;

¹ See "Electronic Trading Advertisements Raise Investor Protection Concerns," *Regulatory & Compliance Alert* (March 1999); see also NASD Regulation Issues Guidance Regarding Stock Volatility, *Notice to Members 99-11* (January 1999).

² In each settled matter, the respondent firm does not admit or deny the allegations, but consents to the entry of findings. The issuance of a formal complaint represents the initiation of a formal proceeding by NASDR in which findings as to the allegations have not been made and does not represent a decision as to any of the allegations made in the complaint.

- ❖ **Costs of Trading:** Statements that gave an incomplete comparison of the costs of day trading through the respondent firm and the costs associated with other forms of securities trading at other firms;
- ❖ **Customer Status:** Statements implying that a “stock trader” or “day trader” serves as an employee of the firm, as opposed to a customer of the firm; and
- ❖ **Filing Requirements:** Failure to follow requirements to file advertisements with NASDR.

These cases demonstrate member firms’ responsibilities to ensure that their communications with the public are accurate and provide the reader with a sound basis to evaluate any service or product discussed. Specific claims regarding the future profitability of a service or strategy run a high risk of misleading the reader and cannot be cured by the addition of disclosure or hedge clauses. NASD Conduct Rule 2210 prohibits promises of specific future results and/or projections of investment returns to customers.

Similarly, members should not state or imply that day trading is a simple strategy or that little or no experience is necessary to become a day trader. All discussions of day trading must be balanced

with a fair and accurate presentation of the associated risks and costs. Firms must be able to substantiate claims they make regarding the speed and capacity of their trade execution services. These claims must be balanced with prominent disclosure that market volatility and volume may delay system access and trade execution.

We also remind members that a registered principal must approve advertisements and sales literature in writing prior to use with the public. Under NASD rules, Internet Web sites that are accessible by the public and not password protected are considered advertisements. Further, advertisements for electronic and day-trading services may be subject to filing with the Advertising Regulation Department (Department) of NASDR if the member firm has never before filed with the Department. If this is the case, the firm must file all advertisements 10 days prior to first use for a period of one year, beginning with the date the first filing is received in the Department.

Questions regarding the cases may be directed to Kathy Malfa, Department of Enforcement, at (202) 974-2853, or Amy Sochard, Advertising Regulation Department, at (202) 728-8812.

REGULATORY SHORT TAKES

SEC Authorizes Filing Of Actions To Recover Unpaid NASD Sanctions

The SEC and the NASD announced that they are beginning a program to obtain payment of NASD-ordered sanctions from former registered representatives of broker/dealers. Registered representatives should not be able to avoid paying a fine or providing restitution. Under the new program, the SEC will file applications in federal district court, pursuant to Section 21(e)(1) of the Exchange Act, seeking orders requiring payment of outstanding NASD sanctions that have been or will be affirmed by the SEC. The SEC anticipates that following a summary proceeding it will obtain a court order that it or any party that

would benefit from the payment, including the NASD, could use to pursue collection of the unpaid fine or restitution.

The SEC will also use this program to collect sanctions imposed by other self-regulatory organizations in appropriate circumstances. SEC General Counsel David Becker has said, "By seeking court orders requiring payment of NASD sanctions, the Commission will assure that persons sanctioned by the NASD will not be able to escape payment of fines or restitution orders."

Update On Supervision Of Off-Site Locations

NASD Regulation has received calls inquiring whether employees need to have a designated supervisor if they are registered as a Series 24 (General Securities Principal), have retail customers, and work in one-person or small branch offices. The answer is clearly "yes."

NASD Rule 3010(a)(5) requires that each registered person be assigned to an appropriately registered supervisor. That is, one or more persons identified by the firm must take direct responsibility for supervising all producing salespersons, including Series 24 principals. The principal cannot supervise himself. As the SEC succinctly and definitively stated in 1993:

"Supervision, by its very nature, cannot be performed by the employee himself." See *In re Stuart K. Patrick, Rel. No. 34-32314 (May 17, 1993)*. It is important that the firm's written supervisory procedures clearly identify who has supervisory responsibility for personnel at the firm.

Guidance To Members Through Regulatory And Compliance Workshops And Notices To Members

The NASD provides members with guidance on issues relating to supervision in a number of forums. The Member Regulation Department is

currently conducting a series of phone-in educational sessions on different regulatory topics, including supervision. Members are invited to listen to a panel presentation by NASD Regulation staff members who address frequently asked questions and provide information to keep members current on important regulatory developments. On November 3, 1999, the Member Regulation Department held a telephone conference on supervisory systems and written supervisory procedures. The transcript from the conference call is available at the NASD Regulation Web Site at www.nasdr.com.

On February 23, 2000, Member Regulation held a teleconference to address "Supervision of Office of Supervisory Jurisdiction (OSJ) and Non-OSJ Offices." The presentation included a discussion of the significant differences in the supervision of OSJ and non-OSJ offices; a summary of the major disciplinary cases that discuss members' supervisory obligations relating to small and dispersed offices; correspondence logs and tools that firms use to detect and prevent regulatory problems in branch office locations; "red flags" that should alert managers to possible misconduct and trigger cause inspections by members; examples of innovative and effective supervisory systems and procedures developed by members to respond to the unique challenges presented by off-site locations; and a supervision checklist for principals. A transcript of this conference call was recently posted on the NASD Regulation Web Site.

More traditionally, the NASD has addressed supervision issues and, in particular, issues relating to supervision of employees in off-site

locations, in NASD publications such as *Notices to Members* and the *Regulatory & Compliance Alert*. Recently, NASD published *NASD Notice to Members 99-45* (June 1999) which offered a comprehensive overview of the requirements of NASD Rule 3010. It included specific guidance, especially to smaller member firms, for complying with NASD Rule 3010. *NASD Notice to Members 98-38* (May 1998) addressed a related topic, supervision of registered persons in unregistered offices.

The NASD also issues *Notices to Members* on specific supervision topics. For example, *NASD Notice to Members 98-96* (December 1998) provided guidance on supervisory responsibilities for trade reporting and market-making activities.

Recent Decisions Addressing Supervision Of Remote Offices

Disciplinary decisions can be instructive to a broader audience even though focused on specific facts and circumstances. To illustrate, in two cases issued in 1999, the SEC addressed supervision of representatives in remote offices where it found the procedures and supervision to be inadequate.

In *In re La Jolla Capital Corp. and Harold Bailey Gallison, Jr., Rel. No. 34-41755* (Aug. 18, 1999), the Commission reviewed an NASD action and confirmed that the firm failed reasonably to supervise registered representatives in a remote office. The SEC noted that the written procedures failed to set forth adequately the supervisory chain of command and criticized the firm's supervisory system that relied solely on branch managers. The president of the firm did nothing

to supervise the branch manager, beyond reviewing trade blotters, customer account statements, and order tickets. The Commission stated that someone at the firm needed to see that branch managers were diligently supervising the representatives. The SEC stressed the importance of inspections of remote offices, especially in a case like this, where an inexperienced branch manager was in a remote branch supervising inexperienced representatives. Finally, the Commission reinforced that supervisors must respond appropriately to red flags raised at branch offices.

In another case, the SEC ordered a permanent supervisory bar against a firm's president and also revoked the firm's registration as a result of the president's failure to supervise a registered representative in a remote office. See *In re James Harvey Thornton and Payne & Thornton, Inc. d/b/a Retirement Investment Group, Rel. No. 34-41007 (Feb. 1, 1999)*. There, the firm, which was headquartered in Texas, had registered representatives in five to six states, and the president alone was responsible for supervising all of the 40 to 50 representatives. The firm's top producer in Florida had customer complaints and was subject to a customer lawsuit that the president "missed" in reviewing the Forms U-4 and U-5 when she joined the firm. While she was at the firm, she disclosed that she was being sued in a

class action lawsuit by 32 plaintiffs who alleged that the representative had put them in unsuitable investments. A former employee alerted the president that the firm could have serious compliance problems regarding the suitability of the recommendations that representative was continuing to make to customers.

Despite these various red flags, the president never audited the representative's accounts, never inspected the Florida offices during the three-and-a-half years that she was with the firm, never interviewed her employees and salespersons, and never contacted her customers regarding the suitability of the securities. The firm's supervisory procedures had no provision for heightened supervision of representatives with disciplinary histories and no provisions for surprise audits and inspections. The SEC permanently barred the president from acting in a supervisory capacity and imposed a bar with a right to reapply in three years from his association with a broker/dealer. It revoked the firm's registration, noting that the firm was so thinly structured, that it would effectively cease to exist after the president, its sole principal, was barred.

If you have questions regarding your supervisory system and/or written supervisory procedures, please call your local NASD District Office.

Series 55 May 1 Deadline Reminder

On May 1, 2000, any equity trader who has not passed the Series 55 examination will have to cease all trading activities in Nasdaq and/or over-the-counter equity securities. Equity traders who have not completed the Series 55 exam should take the exam as soon as possible. By way of background, on April 1, 1998, NASD Regulation amended the NASD Registration Rules regarding the qualification of representatives who trade equity securities in The Nasdaq Stock Market® and/or over-the-counter. A new

qualification examination was established - the Limited Representative - Equity Trader Examination (Series 55). Registered persons who functioned as equity traders were given a two-year grace period and are required to pass the Series 55 exam by May 1, 2000.

Questions regarding this information may be directed to Carole Hartzog in the Testing and Continuing Education Department, at (301) 590-6696.

questions

Financial Operations Focus

Following is a regular feature NASDR will present in the *Regulatory & Compliance Alert* highlighting questions and answers about members' financial operations.

Q: Are 12b-1 fees receivable on an introducing firm's general ledger allowable assets for net capital if these 12b-1 fees are receivable from the clearing firm?

A: No. Receivables under Rule 12b-1 should be recorded as receivables when earned by the dealer and are considered non-allowable assets for net capital purposes regardless of whom they are receivable from.

Q: Is the penalty amount in a penalty clause contained in a clearing agreement a charge to net capital?

A: Yes. A penalty contained as a provision in a clearing agreement is a charge to the introducing firm's net capital. NASD Regulation has generally viewed these as early termination penalties.

For example: a clearing agreement requires a \$100,000 deposit, no fixed expiration date. There is a clause in the agreement that states; "If during the first year of the agreement it is terminated the introducing firm would forfeit \$25,000, during the second year

\$15,000, and during the third year \$10,000." In this example, if the introducing firm were to terminate its clearing agreement in the first year it would only receive \$75,000 from the clearing firm, in the second year, \$85,000, and in the third year, \$90,000. Consequently, a charge to net capital would have to be taken equal to the total amount that would be forfeited at the date of the net capital computation, or in this example, a charge of \$25,000 in the first year, \$15,000 in the second year, \$10,000 in the third, and no change thereafter.

Q: Are securities maintained in satisfactory control locations described in SEC Rule 15c3-3 (c) (4) and (c) (7) in compliance with the Rule if these locations are within former USSR states?

A: Yes. The SEC has extended until December 31, 2000 the good control location status for securities held in satisfactory control locations within former USSR states.

Q: Where Broker/Dealer A has proprietary assets held by Broker/Dealer B, that it is treating the assets as allowable for net capital, what does Broker/Dealer A do to demonstrate both proper treatment of those assets and compliance with the SEC's Net Capital Rule 15c3-1?

A: Broker/Dealer A must have executed an agreement with Broker/Dealer B, the broker/dealer holding the assets, entitled "Proprietary Accounts of Introducing Brokers and Dealers." This agreement demonstrates the proper treatment of certain assets as

allowable and in compliance with the Net Capital Rule.

Q: What proprietary accounts of a broker/dealer must be considered by a broker/dealer holding those assets when preparing a Proprietary Accounts of Introducing Brokers and Dealers (PAIB) reserve computation?

A: All proprietary assets of a broker/dealer subject to a PAIB agreement must be considered when preparing a PAIB reserve computation. See SEC's No-Action Letter dated November 3, 1998.

Q: What is required of a broker/dealer that discovers a previously overlooked deficiency with respect to the amount of cash and/or qualified securities on deposit in the Special Reserve Bank Account for the Exclusive Benefit of Customers?

A: A broker/dealer, currently in compliance with the reserve deposit requirement, that discovers a hindsight deficiency caused by an error must immediately upon discovery of such deficiency report it to the regulatory authorities, as indicated in Rule 15c3-3(i).

Q: By what day and time must a broker/dealer make a required deposit to the Rule 15c3-3, Special Reserve Bank Account for the Exclusive Benefit of Customers?

A: The required deposit must be made on the second business day following the date of the computation by no later than one hour after the opening of banking, normally 10:00 a.m. The time of the deposit is determined by local time for the broker/dealer's main office.

Q: What form must a deposit take in order to be a valid deposit to the Special Reserve Bank Account for the Exclusive Benefit of Customers?

A: Cash deposited to the Special Reserve Bank Account must have originated from a fed funds wire or certified check(s) and be deposited by 10:00 a.m. The only clearing

house checks that are acceptable for deposit directly to this account are those checks received directly from customers of the broker/dealer.

Questions about this article may be directed to Sam Luque or Susan DeMando of NASDR Member Regulation at (202) 728-8221.

Auditing Qualification Requirements Of SEC Rule 17a-5

The NASD has received certain audit opinions signed by auditors who do not meet the qualification requirements of SEC Rule 17a-5(f)(1). The NASD is reminding its member firms that as of the date the audit opinion is signed, the auditor must be in good standing under the laws of the auditor's place of residence or principal office. The rule is written in terms of both "certified public accountants" and "public accountants" to take into account differences in state laws. The actual rule language reads as follows:

"The Commission will not recognize any person as a certified public accountant who is not duly registered in good standing as such under the laws of his place of residence or principal office. The Commission will not recognize any person as a public accountant who is not in good standing and entitled to practice as such under the laws of his place of residence or principal office."

It is essential that member firms verify whether the auditor meets the qualification requirements of the rule. This may be done by calling the applicable state government Board of Accountancy (the government office that regulates public accountants and CPAs). The Board of Accountancy telephone numbers are generally available in the state governmental section of telephone books or from directory assistance. The telephone numbers for the State Boards are also available on the Internet through a "State Boards of Accountancy" link from the American Institute of Certified Public Accountants Web Site (www.aicpa.org).

Questions about this article may be directed to Sam Luque or Susan DeMando of NASDR Member Regulation at (202) 728-8221.

MARKET REGULATION

SEC Provides Guidance To NASD Members Regarding The Use Of Average Price And Multiple Capacity Confirmations

The following article was originally published in the December 1997 issue of the *Regulatory & Compliance Alert*. NASD Regulation is republishing this information as a service to members and to bring further clarity to this topic.

In a letter to The Nasdaq Stock Market, dated May 6, 1997, the Chief Counsel of the SEC's Division of Market Regulation (Division) stated that the Division would not recommend enforcement action to the SEC pursuant to SEC Rule 10b-10(a) if NASD member firms send average price or multiple capacity confirmations to confirm single customer orders, effected in multiple executions, in order to achieve best execution, provided such executions are done in accordance with the letter.

This Division staff no-action position came about as a result of the implementation of the SEC's recently enacted Order Handling Rules and changes to the evolving standards of best execution of customer orders. It is now possible that a customer order in a Nasdaq security, received by a Nasdaq market maker, may be executed by crossing such order either: (1) against other customer limit orders; (2) against the principal account of the market maker at multiple prices

in multiple lots; or (3) both. For example, Market Maker A may be holding customer limit orders for a particular Nasdaq security to buy 500 shares at 20 3/8, 500 shares at 20 1/4, and 500 shares at 20 1/8. When Market Maker A receives a customer market order to sell 2,000 shares of that security, Market Maker A may execute the 2,000-share order at multiple prices: 20 3/8, 20 1/4, 20 1/8, and 20, for 500 shares each. The last 500 shares (executed at 20) may be executed by the market maker as principal, whereas the other 1,500 shares may be executed as agent by crossing the customer market order to sell against the customer limit orders.

Recognizing that the issuance of multiple confirmations for each part of the execution of a single order could result in higher aggregate confirmation fees related to the overall execution (which transaction costs might be borne, in part, by customers), which would, in turn, offset the price improvement resulting from the matching of the market order and the limit order and cause confusion for some customers that receive multiple confirmations relating to an individual order, the Division staff stated that market makers may seek to issue a single confirmation at a price that is an average price derived from the sum of each individual executions and that reflects the multiple capacities in which the firm carried out

multiple executions to fill the single order. To the extent that a member firm chooses to issue such an average price or multiple capacity confirmation for the execution of a single order, the Division staff stated that the member firm responsible for the confirmation must provide the following information required by SEC Rule 10b-10(a):

1. The market maker must average the execution prices of each individual execution that filled the market order or crossing limit order and report the average price per share on the confirmation as the unit price, with a notation that the disclosed price is an average price. The confirmation must note that details regarding the actual prices are available to the customer upon request;
2. The confirmation must identify the capacity in which the broker/dealer acted in executing the order as "principal," "agent," or both "principal and agent," as applicable, and that details regarding capacity of each execution are available upon request;
3. The commission, markup, markdown, service fee, and any other remuneration to the member associated with the executions must not be detailed separately, but must be stated in a single amount for the transaction as a whole; and
4. The confirmation must include all other information required by Rule 10b-10(a), but not specifically mentioned in items 1-3, above.

The Division staff also stated that each NASD member firm issuing such confirmations must create and maintain records as required under SEC Rules 17a-3 and 17a-4 in a manner that would reflect the processing of such orders as described above and permit the NASD member to provide, at the request of any customer receiving a customer confirmation as described above, information regarding each individual execution and the capacity in which the NASD member acted in each underlying execution. Direct any and all questions regarding this matter to Peter D. Santori, Attorney, Market Regulation, NASD Regulation, at (301) 208-2935.

QUALIFICATIONS/TESTING/CONTINUING EDUCATION

Testing Update

Excellence In Service Award For Sylvan Centers

NASD Regulation has established a Sylvan Technology Center (STC) Excellence in Service Award Program in 1999 for those STCs that consistently achieve excellence in the areas of customer service and performance.

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

The Excellence In Service Award winners for fourth quarter 1999 are:

★ Consecutive Quarter Winners

★ Dothan, AL	Cincinnati, OH	Utica, MI
★ Fox Point, WI	Atascadero, CA	Billings, MT
★ Memphis, TN	Charlotte, NC	
★ St. Louis, MO	Redlands, CA	

Sylvan Appointment Scheduling During June And July 2000

Due to an anticipated increase in volume, demand for appointments at Sylvan Testing Centers is expected to peak during the months of June and July 2000. Sylvan 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.

NASDR To Begin International Delivery Of Testing & Regulatory Continuing Education

NASD Regulation announced that it will be expanding international delivery of testing and continuing education to registered persons. NASD Regulation currently operates a dedicated testing center which is co-located with Nasdaq International in London, England.

NASDR is arranging to have Minneapolis-based Virtual University Enterprises (VUE), a division of NCS, Inc., coordinate the international operation of centers. Initial plans are to begin delivery in

three European locations (London, Paris, and Frankfurt) and three Pacific Rim locations (Hong Kong, Tokyo, and Seoul) during the third quarter of 2000. Additional international locations will be considered based on demand. VUE/NCS, Inc., has a network of high-quality, company-owned, and contracted delivery locations worldwide.

NASD Regulation will continue to provide registration of individuals through either the Form U-4 process (on the Internet via Web CRD) or the

Form U-10 process as it is done today. There will be a nominal surcharge for each delivery provided in the international locations.

Questions or inquiries concerning international delivery can be directed to A. Lee Hays of NASD Regulation at (301) 590-6003. Questions about the rest of this article may be directed to Linda Christensen of NASD Regulation at (610) 627-0377.

Certification Testing & Continuing Education Delivery Location List

Current as of March 2000

Alabama

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

Alaska

Anchorage	907-563-6601
-----------	--------------

Arizona

Goodyear	623-932-7800
Phoenix (N. 35th Ave.)	602-548-8220
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 (5601 W. Slausen)	310-337-6696
Culver City (5731 W. Slausen)	310-337-6696
Diamond Bar	909-861-1146
Fremont	510-745-8192
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	619-481-3648
San Francisco (Market St.)	415-882-1212
San Francisco (W. Portal St.)	415-681-3769
San Jose	408-257-7699
Santa Rosa	707-528-6000
Walnut Creek	925-934-3099
Westlake Village	805-495-6367

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	860-659-0400
Hamden	203-287-9677
Norwalk	203-847-0031

Delaware

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

District of Columbia

Washington	202-955-5887
------------	--------------

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
Miami	305-825-2708
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	404-255-9957
Augusta	706-868-1888
Jonesboro	770-478-5356
Macon	912-474-5909
Marietta	770-980-1117
Savannah	912-354-2660
Valdosta	912-245-1069

Hawaii

Honolulu County	808-263-6656
-----------------	--------------

Idaho

Boise	208-322-3555
-------	--------------

Illinois

Carbondale	618-529-4664
Carpentersville	847-836-2031
Chicago (LaSalle St.)	312-609-2525
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
Ft. Wayne	219-436-2710
Indianapolis (E. 86th St.)	317-257-7546
Indianapolis (Girl's School Rd)	317-247-7664
Lafayette	765-447-5996
Merrillville	219-736-1113
Mishawaka	219-254-1055

Iowa

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

Kansas

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

Kentucky

Lexington	606-268-3338
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

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

Bloomington 612-831-7461
Duluth 218-723-1494
Rochester 507-292-9270
St. Cloud 320-529-4830
Woodbury 651-702-6791

Mississippi

Jackson 601-366-6400

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
Omaha 402-334-9449

Nevada

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

New Hampshire

Portsmouth 603-433-6800

New Jersey

Deptford 609-384-4744
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 518-869-6119
Amherst/Buffalo 716-565-0570
Brooklyn Heights 718-222-1277
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 212-809-5509
NYC Wall Street Area 212-809-5509
Rego Park 718-997-6356
Rochester 716-385-4810
Staten Island 718-980-3079
Vestal 607-798-1715
Wappingers Falls 914-298-8378
Watertown 315-788-2588
White Plains 914-289-0437

North Carolina

Asheville 828-253-4224
Charlotte 704-364-7758
Gastonia 704-853-2038
Greensboro 336-288-1311
Greenville 252-756-0342
Raleigh 919-846-1975

North Dakota

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

Ohio

Cincinnati 513-671-7030
Columbus 614-451-4131

<i>Cuyahoga Falls (Akron)</i>	330-922-5587		
<i>Dayton</i>	937-435-8417		
<i>Hilliard</i>	614-529-4232		
<i>Lima</i>	419-331-7323		
<i>Mentor</i>	440-255-0055		
<i>Niles</i>	330-652-1886		
<i>Reynoldsburg</i>	614-864-4090		
<i>Strongsville</i>	440-238-0530		
Oklahoma			
<i>Oklahoma City</i>	405-843-8378		
<i>Tulsa</i>	918-249-0820		
Oregon			
<i>Eugene</i>	541-485-4589		
<i>Milwaukie</i>	503-659-9575		
<i>Portland</i>	503-254-2009		
Pennsylvania			
<i>Allentown</i>	610-791-5320		
<i>Clark Summit</i>	717-586-4362		
<i>Erie</i>	814-864-6100		
<i>Harrisburg</i>	717-652-0646		
<i>Lancaster</i>	717-391-6519		
<i>North Wales</i>	215-412-7822		
<i>Philadelphia</i>	215-238-8380		
<i>Pittsburgh (North Hills)</i>	412-367-4620		
<i>Pittsburgh (Braddock Ave.)</i>	412-247-4463		
<i>Plymouth Meeting</i>	610-941-6284		
<i>York</i>	717-755-7471		
Puerto Rico			
<i>Hato Rey</i>	787-753-6394		
Rhode Island			
<i>Cranston</i>	401-942-8552		
South Carolina			
<i>Charleston</i>	843-766-5599		
<i>Greenville</i>	864-676-1506		
<i>Irmo</i>	803-749-0356		
South Dakota			
<i>Sioux Falls</i>	605-362-4875		
Tennessee			
<i>Chattanooga</i>	423-894-6249		
<i>Clarksville</i>	931-647-2003		
<i>Franklin</i>	615-790-5018		
<i>Knoxville</i>	423-690-0671		
<i>Madison (Nashville)</i>	615-860-0376		
<i>Memphis</i>	901-266-4606		
		Texas	
		<i>Abilene</i>	915-698-7858
		<i>Amarillo</i>	806-359-1037
		<i>Arlington</i>	817-572-6690
		<i>Austin</i>	512-441-1978
		<i>Beaumont</i>	409-899-9798
		<i>Corpus Christi</i>	512-993-3793
		<i>Dallas</i>	972-385-1181
		<i>El Paso</i>	915-587-7323
		<i>Houston (Saturn Ln)</i>	281-488-6144
		<i>Lubbock</i>	806-785-4400
		<i>Mesquite</i>	972-686-3310
		<i>Midland</i>	915-520-9418
		<i>San Antonio</i>	210-494-7263
		<i>Sugar Land</i>	281-491-9200
		<i>Waco</i>	254-772-2467
		Utah	
		<i>Orem</i>	801-226-5544
		<i>Salt Lake City</i>	800-578-6273
		United Kingdom	
		<i>London</i>	(011-44) 171-374-2666
		Vermont	
		<i>Williston</i>	802-872-0845
		Virgin Islands	
		<i>St. Croix</i>	340-773-5751
		Virginia	
		<i>Arlington/DC Area</i>	703-807-5813
		<i>Lynchburg</i>	804-832-0778
		<i>Mechanicsville</i>	804-730-5844
		<i>Newport News</i>	757-873-0208
		<i>Roanoke</i>	540-344-3688
		Washington	
		<i>Lynnwood</i>	425-774-3922
		<i>Puyallup</i>	253-848-0771
		<i>Spokane</i>	509-467-8715
		West Virginia	
		<i>Morgantown</i>	304-293-0699
		<i>South Charleston</i>	304-744-4144
		Wisconsin	
		<i>Fox Point</i>	414-540-2223
		<i>Madison</i>	608-231-6270
		<i>New Berlin</i>	414-796-0836
		<i>Racine</i>	414-554-9009
		Wyoming	
		<i>Casper</i>	307-235-0070

NASD DISCIPLINARY ACTIONS

NASD Disciplinary Actions

In January, February, and March 2000, 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 Monday, March 13, 2000.

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

Lissa Ann Searfoss (CRD #1952678, Registered Representative, San Francisco, California) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Searfoss failed to respond to NASD requests for information concerning a customer complaint. (NASD Case #C01990008)

February Actions

Robert Boyer Hutchinson (CRD #2284274, Registered Representative, Sonoma, California) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Hutchinson failed to respond to NASD requests for information regarding possible unauthorized trading. (NASD Case #C01990004)

Sean Eric Radetich (CRD #2613626, Registered Representative, East Norwich, New York) was fined \$20,000 and suspended from association with any NASD member in any capacity for two years for settling a customer complaint away from the firm and fined \$20,000 and barred from association with any NASD member in any capacity for failing to respond truthfully to NASD requests for information. The fines are due upon reentry into the securities industry. The sanctions were based on findings that Radetich signed a \$21,500 joint promissory note to settle a customer complaint of unauthorized trading without the knowledge or approval of his member firm. The findings also stated that Radetich failed to respond truthfully to NASD requests for information concerning the customer complaint, the settlement, and his termination from a member firm. (NASD Case #C01980020)

March Actions

Gregory Dean Boynton (CRD #1983783, Registered Representative, Walnut Creek, California) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Boynton consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and documents. (NASD Case #C01990019)

Gary Lee Walker (CRD #2622510, Registered Representative, Sacramento, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. The fine is due and payable prior to any membership application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Walker consented to the described sanctions and to the entry of findings that he borrowed \$10,400 from public customers when he knew that he would be unable to repay the loans when due. (NASD Case #C01000002)

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

Omar Luis Buttari, Sr. (CRD #37337, Registered Principal, Chicago, Illinois) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Buttari consented to the described sanctions and to the entry of findings that he failed to make a cash payment of \$62,553 to a member firm pursuant to a New York Stock Exchange arbitration award or to make a motion to vacate or modify the award in a timely manner. The findings also stated that Buttari failed to respond to NASD requests to submit a signed and notarized financial questionnaire and to provide tax returns in a timely manner. (NASD Case #C02980078)

Roger Harry Chlowitz (CRD #501445, Registered Principal, Northridge, California) was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of a Los Angeles District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Chlowitz failed to respond to NASD requests for information. (NASD Case #C02980025)

Coastline Financial, Inc. (CRD #16711, Mission Viejo, California) and Donald Allyson Williams, Sr. (CRD #1899764, Registered Principal, Mission Viejo, California) were censured and fined \$50,000, jointly and severally. The firm was also expelled from membership in the NASD and ordered to repay any outstanding promissory notes with the stated interest. Williams was barred from association with any NASD member in any capacity. The Securities and Exchange Commission (SEC) affirmed the sanctions following appeal of a National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that the firm and Williams engaged in misrepresentations in connection with the sales of promissory notes to investors. (NASD Case #C02950059)

Hampton Securities, Inc. (CRD #18305, Los Angeles, California) and Patrick Alexander Anthony (CRD #2080102, Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent (AWC) pursuant to which they were fined \$20,000, jointly and severally, and suspended from participating in new underwritings for 30 days. Anthony was ordered to requalify by exam as a financial and operations principal within 60 days of notice of acceptance of the AWC. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm, acting under the direction and control of Anthony, effected transactions in securities when it failed to have and maintain sufficient net capital and failed to file annual audited financial statements in a timely manner. In addition, the firm, acting under the direction and control of Anthony, participated in an underwriting and failed to promptly transmit customer checks, totaling more than \$162,000, to the issuer. (NASD Case #C02990063)

February Actions

Andy Han (CRD #2601275, Registered Representative, Yorba Linda, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and suspended from association with any NASD member in any capacity for six months. Han also consented to testify at future NASD disciplinary proceedings related to his misconduct. Without admitting or denying the allegations, Han consented to the described sanctions and to the entry of findings that he functioned as a general securities representative, purchased and sold securities in the accounts of public customers, and received approximately \$10,000 in commissions without being registered with the NASD. The findings also stated that Han failed to respond truthfully during an NASD investigation concerning monetary compensation received in connection with the unregistered sales activities, although he later recanted the false statement. (NASD Case #C02990068)

Gordon Kerr (CRD #268444, Registered Representative, Walnut, California) was barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Los Angeles DBCC decision.

The sanctions were based on findings that Kerr functioned as a securities principal while he was barred from acting in that capacity.

Kerr has appealed this action to the SEC. The bar is in effect pending consideration of the appeal. (NASD Case #C02980051)

Kukje Investment and Securities, Inc. (CRD #31075, Los Angeles, California) and Yojin Jung (CRD #2161964, Registered Principal, Burbank, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Jung consented to the described sanctions and to the entry of findings that the firm, acting under the direction and control of Jung, effected securities transactions when the firm failed to maintain sufficient net capital and failed to file a Form U-4 on behalf of a general securities representative who offered and sold securities without being registered with the firm. The findings also stated that the firm, acting through Jung, permitted an individual to offer and sell securities to public customers while deemed inactive for failure to complete the Regulatory Element of the NASD's Continuing Education requirements. (NASD Case #C02990065)

San Clemente Securities, Inc. (CRD #21895, San Clemente, California) and Cooke Baille Christopher (CRD #1590203, Registered Principal, San Clemente, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the firm and Christopher consented to the described sanctions and to the entry of findings that the firm, acting through Christopher, permitted a person subject to a statutory disqualification to function as an associated person of the firm without having obtained NASD approval. The findings also stated that the firm, acting through Christopher, failed to have and maintain sufficient net capital and failed to report numerous customer complaints to the NASD. (NASD Case #C02990064)

Dan Calvin Steingruber, Jr. (CRD #2340541, Registered Representative, Laguna Niguel, California) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Steingruber engaged in private securities transactions without providing prior written notification to his member firm of his participation in the transactions. The findings also stated that Steingruber failed to respond to NASD requests for information. (NASD Case #C02990040)

Daniel Earl Wood (CRD #2134937, Registered Representative, LaJolla, California) was fined \$28,535 and suspended from association with any NASD member in any capacity for two years for private securities transactions and barred from association with any NASD member in any capacity for failure to respond. The sanctions were based on findings that Wood participated in private securities transactions without providing prompt written notice to, and receiving written approval from, his member firm. The find-

ings also stated that Wood failed to respond to NASD requests for information. (NASD Case #C02990043)

March Actions

John Leslie Anderson (CRD #2192152, Registered Principal, Madera, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$9,076 (which includes disgorgement of \$1,576 in commissions), suspended from association with any NASD member in any capacity for 90 days, and ordered to requalify as a registered options principal before associating with any NASD member in that capacity. Anderson was also ordered to pay restitution and interest totaling \$4,261.01 to a public customer. Without admitting or denying the allegations, Anderson consented to the described sanctions and to the entry of findings that he recommended and engaged in the purchase and sale of numerous option spread contracts in the account of a public customer and did not have reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customer on the basis of the customer's financial situation, needs, and ability to evaluate the risks of such trading given the customer's knowledge and experience in financial matters and/or securities investments. (NASD Case #C02990056)

Aragon Financial Services, Inc. (CRD #16023, Brea, California) and Douglas Lyman Lish (CRD #310660, Registered Principal, Anaheim, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm and Lish were censured and fined \$25,000, jointly and severally. Without admitting or denying the allegations, the firm and Lish consented to the described sanctions and to the entry of findings that they failed to report customer complaints received by the firm and securities-related arbitrations to the NASD in which the firm, and/or persons associated with the firm, were named as respondents and which were disposed of by award or settlement in dollar amounts exceeding the thresholds set by the NASD. (NASD Case #C02990072)

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 SEC sustained the sanctions following appeal of a NAC decision. The sanctions were based on findings that Gliksman made unsuitable recommendations to a public customer.

Gliksman has appealed this action to the U.S. Court of Appeals for the Ninth Circuit and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C02960039)

District 3 - Alaska, Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming

District 3A - Denver

January Actions

Gregory Scott Boyd (CRD #1691952, Registered Representative, Denver, Colorado) was fined \$25,000 and barred from association with any NASD member in any capacity for failure to appear, fined \$25,000 and suspended from association with any NASD member in any capacity for two years for private securities transactions, and fined \$30,000 and barred from association with any NASD member in any capacity for misuse of customer funds and failure to secure an intended investment. The sanctions were based on findings that Boyd failed to respond to NASD requests for information and to appear for an on-the-record interview. The findings also stated that Boyd engaged in private securities transactions without prior notification of his member firm. The findings further stated that Boyd received \$5,832.20 from a public customer for investment purposes, deposited the funds into his personal bank account, and failed to return or invest the funds, thereby misusing customer funds. In addition, Boyd failed to arrange for delivery of genuine stock certificates to the customer representing his investments and, instead, delivered fake certificates to the customer in an attempt to deceive and to conceal the fact that he had not completed the transactions. (NASD Case #C3A990038)

Lumiere Securities, Inc. (CRD #13414, Denver, Colorado) and Larry Irwin Kravetz (CRD #275211, Registered Principal, Denver Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured, fined \$50,000, jointly and severally, and ordered to disgorge \$125,000 in profits. Also, if a firm controlled by Kravetz applies for NASD membership within four years of this AWC becoming final, that firm must retain an independent consultant at its own expense to review the firm's supervisory and compliance policies and procedures regarding making Form 211 filings and making markets in equity securities that trade on the OTC Bulletin Board® or in the pink sheets. If the consultant makes recommendations for preventing or detecting improper conduct, this firm will implement the recommendations in a timely manner and report the progress in writing to the consultant. Kravetz also cannot become associated in a principal capacity with any member firm that is a Market Maker in, or effects principal or agency transactions in, equity securities not traded on The Nasdaq Stock Market, Inc. for two years from the date this AWC becomes final unless the NASD permits such association. Without admitting or denying the allegations, the firm and Kravetz consented to the described sanctions and to the entry of findings that the firm, acting through Kravetz, received compensation, directly or indirectly, from issuers, affiliates of issuers, and/or promoters for making Form 211 filings, entering quotations, and/or making a market. The findings also stated that the firm, acting through Kravetz, entered a priced quotation for which it had previously filed a Form 211 for unpriced quotations without filing supplements, and entered a quotation and commenced making a market with-

out a reasonable, independent basis for the quotation. Furthermore, the findings also stated that the firm, acting through Kravetz, maintained inventory in amounts that exceeded the amount permitted by the firm's restriction agreement, failed to implement Firm Element Continuing Education, and failed to report Non-Nasdaq® OTC transactions in a timely manner or with the correct capacity designator. (NASD Case #C3A990063)

Keith Malvin Peters (CRD #2247575, Registered Principal, Commack, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Peters consented to the described sanctions and to the entry of findings that he made material misrepresentations, omitted to disclose material facts, and predicted the future prices of speculative securities in connection with the offer and sale of securities. The findings also stated that Peters effected a transaction in a public customer account that exceeded the size previously authorized by the customer. In addition, Peters failed to sell securities when instructed to do so by a customer. (NASD Case #C3A990022)

Zions Investment Securities, Inc. (CRD #17776, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$6,000 jointly and severally with individuals, and ordered to disgorge \$18,933 in net commissions accrued to the firm. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business while it failed to maintain the required minimum net capital; failed to prepare, maintain, and issue account statements to its customers notifying them of customer free credit/debit balances; and failed to send each customer information regarding its financial condition. The findings also stated that the firm, acting through an individual, allowed persons to remain associated with the firm, transact a securities business, and collect commissions while their licenses were inactive due to failure to complete the Regulatory Element of Continuing Education. In addition, the firm, acting through the individual, failed to have adequate written supervisory procedures addressing the handling of customer free credit and debit balances, the firm's obligation to send semi-annual financial statements to customers for which the firm holds customer money balances, compliance with the Regulatory and Firm Elements of Continuing Education, and compliance with the firm's obligations to report customer complaints and other events to the NASD. (NASD Case #C3A990066)

February Actions

Christopher Gordon Fike (CRD #2493817, Registered Representative, Bayshore, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 18 months. Without admitting or denying the allegations, Fike consented to the described sanctions and to the entry of

findings that he made material misrepresentations, omitted to disclose material facts, and predicted the future price of speculative securities in connection with the offer and sale of securities. The findings also stated that Fike made recommendations to a public customer that were unsuitable in light of the customer's financial situation and needs. (NASD Case #C3A990021)

March Actions

Charles John Distefano (CRD #2198727, Registered Principal, Medford, New York) was fined \$25,000, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by exam for unauthorized trading and failure to execute a customer order. Distefano was also barred from membership with any NASD member in any capacity for nondisclosures, misrepresentation, and failure to respond. In addition, Distefano was required to pay \$146,983.13, plus pre-judgment interest, in restitution to public customers. The fine is due and payable prior to reentry in the securities industry. The sanctions were based on findings that Distefano made materially false and misleading statements and failed to disclose material facts in connection with the sale of securities to public customers including the risks involved with investments and the financial remuneration he would receive from sales of securities. The findings also stated that Distefano failed to execute a customer's order to sell securities and effected unauthorized transactions in the accounts of public customers. In addition, Distefano failed to respond to NASD requests to give testimony and to produce documents. (NASD Case #C3A990008)

Steven Nelson Long (CRD #2948957, Registered Representative, Murray, Utah) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 business days. The fine is due upon reentry into the securities industry. Without admitting or denying the allegations, Long consented to the described sanctions and to the entry of findings that he effected transactions in a customer account without the customer's authorization. (NASD Case #C3A000003)

Jim Newcomb (CRD #1376482, Registered Principal, Fort Collins, Colorado) was fined \$32,000 and suspended from association with any NASD member in any capacity for 90 days. The sanctions were based on findings that Newcomb engaged in private securities transactions, received selling compensation for these transactions, and failed to give prior written notice to, or to receive written approval from, his member firm.

Newcomb has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3A990050)

Harlan James Scott (CRD #1545214, Registered Representative, Fort Collins, Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he

was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Scott consented to the described sanctions and to the entry of findings that he failed to amend his Form U-4 to disclose a guilty plea to a felony. (NASD Case #C3A000004)

Susan Marie Wuest (CRD #1395441, Registered Representative, Gilbert, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wuest consented to the described sanction and to the entry of findings that she converted approximately \$194,000 from the accounts of public customers and approximately \$112,000 from her member firm to her own use. The findings also stated that, in connection with her conversion of funds from her firm, Wuest forged the required second signature on checks so that she could deposit the checks into her own account. (NASD Case #C3A000002)

District 3B - Seattle

January Actions

Black & Company, Inc. (CRD #95, Portland, Oregon) and Dennis Burton Reiter (CRD #373898, Registered Principal, Portland, Oregon) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Reiter was also required to requalify by exam as a financial and operations principal (Series 27) within 90 days of the acceptance of the AWC. If Reiter fails to requalify, he will be unable to act as a financial and operations principal until he successfully passes the exam. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm, acting through Reiter in his capacity as its financial principal, effected transactions in securities while failing to maintain its minimum required net capital. (NASD Case #C3B990034)

Empire Securities, Inc. of Washington (CRD #13854, Spokane, Washington) and David Allen Taisey (CRD #128009, Registered Principal, Elk, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$15,000 and Taisey was censured and barred from association with any NASD member in the capacity of a general securities principal with the right to reapply after five years. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm, acting through Taisey, failed to establish, maintain, and enforce written supervisory procedures reasonably designed to ensure that the firm's registered representatives refrained from engaging in recommendations to customers that resulted in unsuitable over-concentrations of securities in customers' accounts. The findings also stated that Taisey failed to adequately supervise registered representatives regarding their unsuitable recommendations. In addition, the

findings stated that Taisey recommended purchases to public customers that were unsuitable based on these customers' other security holdings, financial situations, objectives, and needs. (NASD Case #C3B990033)

February Actions

Gary Keith Imus (CRD #1328490, Registered Representative, Tucson, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$17,000. Without admitting or denying the allegations, Imus consented to the described sanctions and to the entry of findings that he made recommendations for the purchase and sale of securities to public customers that were unsuitable in view of the frequency of the recommended transactions and the use of margin in connection with the transactions. (NASD Case #C3B990035)

Michael Lee Eng King (CRD #2319364, Registered Principal, Portland, Oregon) was fined \$30,000, barred from association with any NASD member in any capacity, and ordered to pay \$29,760, plus interest, in restitution to a public customer. The sanctions were based on findings that he engaged in excessive trading in the account of a public customer and engaged in unsuitable recommendations through a significant amount of short selling in the account that was not consistent with the customer's investment objectives and experience. (NASD Case #C3B980022)

Mark Alan McGee (CRD #2422551, Registered Representative, Newcastle, Washington) was barred from association with any NASD member in any capacity. The sanctions were based on findings that McGee converted \$31,079 that he received from public customers for investment purposes and fraudulently obtained \$26,000 of these funds by misrepresenting the existence of a specific investment product. The findings also stated that McGee failed to respond to NASD requests for information concerning customer complaints. (NASD Case #C3B990017)

March Actions

Charles Golden Paxton (CRD #1035500, Registered Representative, Snohomish, Washington) was barred from association with any NASD member in any capacity. The sanction was based on findings that Paxton failed to respond to NASD requests for information. (NASD Case #C3B990026)

Ronna Sue Stark (CRD #2136690, Registered Representative, Lacey, Washington) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Stark failed to respond to NASD requests for information regarding a possible conversion of customer funds. (NASD Case #C3B990030)

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

January Actions

Stanley Paul Buck (CRD #2304732, Registered Representative, Liberty, Missouri) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Buck entered inaccurate deposit records into his member firm's computer system and failed to respond to NASD requests for information. (NASD Case #C04990038)

Douglas John Cabell (CRD #733516, Registered Representative, Bettendorf, Iowa) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Cabell 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 written approval from, his member firm. (NASD Case #C04990044)

February Actions

Bradford Lee Brinton (CRD #2572055, Registered Representative, St. Joseph, Missouri) was barred from association with any NASD member in any capacity. The NAC imposed the sanction following appeal of an Office of Hearing Officers (OHO) default decision. The sanctions were based on findings that Brinton forged or caused to be forged the endorsement of a customer's \$1,695.23 dividend check, deposited the check into a bank account he controlled, and converted the proceeds to his own use and benefit. (NASD Case #C04990005)

Robert Eugene Dettle (CRD #66370, Registered Representative, Santa Cruz, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$31,416.50, suspended from association with any NASD member in any capacity for one year, and required to requalify prior to reassociating with a member firm following his suspension. The fine is due and payable prior to reassociation with a member firm following the suspension or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Dettle consented to the described sanctions and to the entry of findings that he maintained and/or opened securities accounts at other member firms without informing them of his association with a member firm and failed to provide written notification of the existence of the accounts to his member firm. The findings also stated that Dettle purchased new issues securities at the initial public offering price which subsequently traded at a premium in the secondary market. (NASD Case #C04990050)

Jeffrey Phillip Halling (CRD #2468671, Registered Representative, Eagan, Minnesota) was fined \$42,142.43 and barred from association with any NASD member in any

capacity. The fine is due and payable upon reentry into the securities industry. The sanctions were based on findings that Halling received \$72,142.85 from public customers to purchase an index annuity and mutual funds, failed to make the purchases, and deposited the funds into his personal checking account. Halling eventually returned \$30,000.42 to the customers and retained the remaining \$42,142.43 to pay personal expenses, thereby misusing and converting customer funds. The findings also stated that Halling failed to respond to an NASD request for information relating to the conversion allegations. (NASD Case #C04990032)

Daniel Charles Krueger (CRD #1583786, Registered Representative, Fond Du Lac, Wisconsin) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Krueger failed to respond to NASD requests for information regarding possible outside business activities. (NASD Case #C04990031)

Roger Stevenson Peavey (CRD #1510419, Registered Principal, Marshall, Minnesota) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for one year and six months. Without admitting or denying the allegations, Peavey consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving written approval and/or acknowledgment from, his member firms. (NASD Case #C04990023)

Galen Dwight Skramstad (CRD #1454841, Registered Representative, Marshall, Minnesota) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for eight months. Without admitting or denying the allegations, Skramstad consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or prior written approval and/or acknowledgment from, his member firm. (NASD Case #C04990023)

March Actions

Joshua David Arnold (CRD #828189, Registered Principal, Edina, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in a principal capacity for 30 days. Arnold also agreed to refrain for one year from accepting or maintaining employment in a sales capacity with any NASD member unless that firm has formulated special supervisory procedures to oversee and monitor his sales practices with customers. The firm must submit the special supervisory procedures to the NASD prior to, or no later than, 30 days after Arnold's association with the firm. Without admitting or denying the allegations, Arnold consented to the described sanctions and to the entry of findings that he recommended numerous purchases and sales of securities to public customers without having a reasonable basis for believing that

such recommendations were suitable in view of their investment objectives, financial resources, frequency of transactions, and type of securities. (NASD Case #C04000003)

Dougherty Summit Securities LLC n.k.a. Dougherty & Company, LLC (CRD #7477, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$23,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it commenced best efforts offerings of shares of common stock using private placement memoranda which failed to include statements that the firm, and/or persons associated with the firm, would be purchasing a portion of the offerings. The findings also stated that the firm failed to file, or to file in a timely manner, appropriate documents with the Municipal Securities Rulemaking Board in connection with municipal offerings. (NASD Case #C04000006)

James Joseph Harrington, Jr. (CRD #1592332, Registered Representative, Coral Springs, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was suspended from association with any NASD member in any capacity for 10 business days and required to pay \$9,000 in restitution to a public customer. Without admitting or denying the allegations, Harrington consented to the described sanctions and to the entry of findings that he executed discretion in the account of a public customer without obtaining prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm. The findings also stated that Harrington made baseless price predictions and/or predictions of returns in recommendations to public customers. In addition, Harrington negligently made statements of fact which were untrue or omitted to state facts necessary to make the statements not misleading, in light of the circumstances in which they were made. (NASD Case #C04000005)

Miller & Schroeder Financial, Inc. (CRD #37526, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$14,060. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to conduct a securities business and to act in a registered capacity when the individual's registration had lapsed for non-compliance with the Regulatory Element of the Continuing Education requirement. (NASD Case #C04000001)

Joseph John Salerno, III (CRD #1846102, Registered Principal, Margate, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$100,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Salerno consented to the described sanctions and to the entry of findings that, as branch manager of a member firm, he sold penny stocks to public customers without obtaining signed receipts of the required penny stock transaction risk disclosure statement and trade agreements and signed written statements relating to the purchaser's

financial condition, investment experience, and investment objectives. Transactions also took place without disclosing the bid and ask price prior to the transactions or at the time of confirmation, and without disclosing compensation to the firm and registered representative at the time of confirmation. The findings also stated that Salerno engaged in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm. In addition, Salerno accepted monies for investment without signed subscription agreements or any other indication that the customers intended to purchase Class "A" shares of the security's common stock and allowed an unregistered person to solicit public customers to invest. Salerno also failed to supervise registered representatives properly to ensure compliance with applicable rules and regulations and to prevent fraudulent price predictions and misrepresentations. Moreover, while the member firm participated in a distribution of shares of a common stock purchased from a selling security holder, Salerno posted bid and ask price quotations for the stock; he purchased, and permitted other registered representatives at the firm to purchase, shares from retail customers and other market participants; and he solicited, and permitted other registered representatives at the firm to solicit, purchases of the stock from retail customers and other market participants. (NASD Case #C04000004)

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

January Actions

David Vincent Liuzza (CRD #2331632, Registered Representative, Covington, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and required to pay \$215,850, plus interest, in restitution to a member firm. Without admitting or denying the allegations, Liuzza consented to the described sanctions and to the entry of findings that he executed unauthorized sale transactions in the accounts of public customers in order to withdraw funds from their accounts and made misrepresentations to public customers as to his use of funds received from them. The findings also stated that Liuzza forged documents, including checks and letters of authorization, in order to withdraw funds from customers' accounts and provided fictitious account statements to the customers. (NASD Case #C05990052)

Sands Brothers & Co., Ltd. (CRD #26816, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$18,500, and required to disgorge \$27,789 to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in connection with contingency offerings of securities, it failed to handle customer funds properly; the firm failed to utilize a written escrow agreement and distributed offering materials that misrepresented that a non-interest bearing escrow account would be established for investors' funds, when the

funds were instead placed in an interest-bearing account with the interest earned paid to the firm. The findings also stated that the firm failed to properly record the receipt of customer funds on the firm's books and records for purchases of interests in contingency offerings of securities. In addition, the firm failed to indicate the limit order terms and conditions on order tickets to reflect that the customers' limit orders had been changed to market orders and that it held unexecuted customer limit orders in Nasdaq securities while it continued to trade the securities for its market-making account at prices that would have satisfied the customers' limit orders. Moreover, the findings stated that the firm failed to immediately publish bids or offers that reflected the prices and the full size of customer limit orders which were at prices that would have improved the firm's bid or offer in certain securities. The firm also neglected to execute transactions in a timely manner and allowed an individual to engage in the firm's securities business prior to his becoming registered with the NASD as a general securities representative. (NASD Case #C05990053)

February Actions

Byron Edward Boothe, Jr. (CRD #1498153, Registered Representative, Georgetown, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Boothe consented to the described sanctions and to the entry of findings that he failed to follow a public customer's instructions to effect certain transactions in his account and in an attempt to reconcile the customer's account, provided materials that misstated the actual positions and account balances. The findings also stated that Boothe provided fictitious confirmations to another customer that reflected transactions had been effected in a joint account when they had not. Boothe provided the customer with a \$28,000 check to settle the customer's complaint and failed to notify his member firm promptly. In addition, Boothe failed to follow the instructions of a third public customer to effect certain sales transactions in his account. (NASD Case #C05990021)

Brookfield Grace, Inc. (CRD #37044, Memphis, Tennessee) and Gary Kent Wunderlich, Jr. (CRD #2256877, Registered Principal, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$25,000, jointly and severally. Without admitting or denying the allegations, the firm and Wunderlich consented to the described sanctions and to the entry of findings that the firm, acting through Wunderlich, broke escrow in the escrow bank account of a mini-max private placement contingency offering prior to the receipt of all customer funds required to meet the contingency. The early release of funds by the firm and Wunderlich rendered false the representation in the offering memorandum that the offering was being made as a mini-max contingency offering. (NASD Case #C05990055)

Hibernia Investment Securities, Inc. (CRD #17526, New Orleans, Louisiana) and Kenneth Alan Rains (CRD #2218000, Associated Person, Mandeville, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Rains was fined \$5,000 and suspended from association with any NASD member in any principal capacity for two weeks. Without admitting or denying the allegations, the firm and Rains consented to the described sanctions and to the entry of findings that the firm allowed Rains to be actively engaged in the management of the firm's securities business without being registered with the NASD in any capacity. (NASD Case #C05990060)

Spear, Leeds & Kellogg (CRD #13988, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$40,000, and required to conduct a review of its supervisory procedures regarding registration of personnel and to submit a report to the NASD detailing its review and revised procedures within 90 days of acceptance of this AWC. The firm will implement changes to its procedures to ensure that all persons actively engaged in the firm's investment banking or securities business, or the management thereof, are properly registered with the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to ensure that persons actively engaged in the management of the firm's investment banking or securities business were properly registered as general securities principals with the NASD. The firm also failed to establish, maintain, and enforce written supervisory procedures that would ensure proper registration of persons. (NASD Case #C05000001)

March Actions

Robert Wayne Rodgers (CRD #2596775, Registered Representative, Dothan, Alabama) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$4,850 and suspended from association with any NASD member in any capacity for five days. The fine is due upon reentry to the securities industry. Without admitting or denying the allegations, Rodgers consented to the described sanctions and to the entry of findings that he failed to inform and to request permission, in writing, from his member firm to maintain third party trading authorization in order to trade securities accounts with another firm. (NASD Case #C05990058)

District 6 - Texas

January Actions

John Samuel Crossman (CRD #1660492, Registered Principal, San Antonio, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admit-

ting or denying the allegations, Crossman consented to the described sanctions and to the entry of findings that he borrowed money from a customer and misrepresented that fact to his member firm. (NASD Case #C06990022)

James Anthony Wengler (CRD #2121904, Registered Principal, San Antonio, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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, Wengler consented to the described sanctions and to the entry of findings that he borrowed money from a customer and misrepresented that fact to his member firm. (NASD Case #C06990023)

February Actions

Miguel Anibal Millan, III (CRD #1798177, Registered Representative, San Antonio, Texas) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Millan failed to respond to NASD requests for information regarding customer complaints alleging forgery, fraud, unauthorized trading, and conversion. (NASD Case #C06990005)

Wilson Stephenson Kyle, Inc. (CRD #22937, Fort Worth, Texas) and Ronald Gene Stephenson (CRD #1275757, Registered Principal, Fort Worth, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Stephenson consented to the described sanctions and to the entry of findings that the firm, acting by and through Stephenson, engaged in options related activities without a qualified registered options principal. The findings also stated that the firm, acting by and through Stephenson, failed to implement the Firm Element of the NASD's Continuing Education Program and failed to develop a needs analysis and training program for the firm's covered registered persons. (NASD Case #C06990026)

March Actions

None

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

January Actions

Michael Brooks Belton (CRD #1197442, Registered Representative, Leesburg, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Belton consented to the described sanctions and to the entry of findings that, in the

extended absence of his member firm's president, he forged the signature of the president on an NASD Offer of Settlement to facilitate the resolution of a complaint against the president and the firm and then submitted the Offer of Settlement to the NASD, without the president's knowledge or consent. (NASD Case #C07990076)

Kenneth M. Caraglio (CRD #2580769, Registered Representative, Miami, Florida) was fined \$50,000 and barred from association with any NASD member. If Caraglio applies to re-enter the securities industry, the fine will be reduced by the amount of restitution, if any, he has paid to public customers. The sanctions were based on findings that Caraglio failed to follow public customers' instructions repeatedly and prepared and sent false confirmations and order tickets of trades that had not been made. The findings also stated that Caraglio failed to respond to NASD requests for information. (NASD Case #C07990046)

John Robert Doughty (CRD #1341074, Registered Representative, Vero Beach, Florida) submitted an Offer of Settlement pursuant to which he was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and ordered to disgorge \$23,850, plus interest, in sales compensation. The sanctions were based on findings that Doughty sold joint venture agreements outside the scope of his regular employment with a member firm and received approximately \$23,850 in sales compensation without providing prior written notice to, or receiving prior written approval from, his member firm. The findings also stated that Doughty failed to disclose to the investors that approximately 13 to 14 percent of their investments was to pay sales compensation, a material fact necessary for investors to make an informed decision regarding the purchase of securities. (NASD Case #C07990059)

Jo Ann Lee Harper (CRD #2390689, Registered Representative, Norfolk, Virginia) submitted an Offer of Settlement pursuant to which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Harper consented to the described sanctions and to the entry of findings that she failed to respond to an NASD request for information concerning an ongoing investigation of a customer complaint against her. (NASD Case #C07990056)

Jeffrey Mark Schuler (CRD #1077640, Registered Principal, Delray Beach, Florida) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 30 days and required to pay \$32,659.17 in restitution to a public customer. Without admitting or denying the allegations, Schuler consented to the described sanctions and to the entry of findings that he recommended transactions for public customers that were unsuitable based upon their tax status, investment objectives, financial situations, and needs. (NASD Case #C07980045)

February Actions

Mark Steven Balbirer (CRD #2297951, Registered Representative, Sunrise, Florida) was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. The NAC imposed the sanctions following a call for review of an OHO decision. The sanctions were based on findings that Balbirer executed unauthorized trades in the account of a public customer. (NASD Case #C07980011)

Denise Lynn Crowley-DelRossi (CRD #2308457, Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which she was fined \$32,624—\$12,624 of which represents disgorgement of commissions received in connection with unsuitable trades—and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Crowley-DelRossi consented to the described sanctions and to the entry of findings that she implemented courses of unsuitable trading in the accounts of public customers based upon their age, disability, income needs, trading experience, investment objective, financial situation, retirement needs, or concentration of positions. (NASD Case #C07990037)

Ali Durson Eryurt (CRD #1605004, Registered Representative, Tampa, Florida) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Eryurt failed to pay a \$68,583.86 arbitration award and failed to respond to NASD requests for information. (NASD Case #C07990032)

Douglas Fulton Kaiser (CRD #1674570, Registered Principal, Coral Springs, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any principal or supervisory capacity for 10 business days. Without admitting or denying the allegations, Kaiser consented to the described sanctions and to the entry of findings that he failed to reasonably supervise a registered representative to prevent or detect suitability violations in connection with options transactions effected in the account of a public customer. (NASD Case #C07990081)

Jamie Patrash (CRD #2744189, Registered Representative, Jacksonville, Florida) was barred from association with any NASD member in any capacity. The sanctions are based on findings that Patrash altered checks given to him to purchase mutual funds by changing the payee from his member firm to himself, cashed the checks, and converted the funds to his own use and benefit. The findings also stated that Patrash altered and cashed checks given to him by individuals to become independent contractors with one of his firm's affiliated companies and stole cash from other individuals applying to be independent contractors. The findings also stated that Patrash converted approximately \$2,841 in total. (NASD Case #C07990052)

Peter John Quartararo, Jr. (CRD #1727697, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was fined \$42,000 and

barred from association with any NASD member in any capacity with a right to reapply after two years. Without admitting or denying the allegations, Quartararo consented to the described sanctions and to the entry of findings that he executed trades against his member firm's trading account whereby he or his customers profited at the firm's expense. The findings also stated that the trades involved purchases at, around, or below the market bid price and the subsequent sales of the same securities back to the firm's trading account at, around, or above the market ask price. Quartararo achieved profits for his personal accounts and those of his customers at the expense of his firm, breaching his fiduciary duty to his firm. In addition, the findings also stated that Quartararo failed to report transactions through the Automated Confirmation Transaction ServiceSM (ACTSM) in a timely manner. (NASD Case #C07990038)

Malek Paul Tawil (CRD #2329493, Registered Representative, Palm Beach Gardens, Florida) was fined \$60,000 and barred from association with any NASD member in any capacity. The fine is due upon reentry to the securities industry. The sanctions were based on findings that Tawil effected unauthorized transactions in the accounts of public customers and failed to respond to an NASD request for information. (NASD Case #C07990053)

March Actions

Daniel Alan Camm (CRD #2568664, Registered Representative, Tampa, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine is due and payable prior to reassociation with a member firm following the suspension or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Camm consented to the described sanctions and to the entry of findings that he sold a \$13,500 promissory note to a public customer without obtaining prior written approval from his firm. (NASD Case #C07000007)

D.L. Cromwell Investments, Inc. (CRD #37730, Boca Raton, Florida), Lloyd Sylvester Martin Beirne (CRD #1982417, Registered Principal, Boca Raton, Florida) and Matthew Greenwald (CRD #229262, Registered Principal, Boca Raton, Florida). Beirne was fined \$10,000, jointly and severally, with the firm and suspended from association with any NASD member in any supervisory capacity for 15 business days. Greenwald was fined \$10,000, jointly and severally, with the firm and suspended from association with any NASD member in any supervisory capacity for five business days. The fines for Beirne and Greenwald will not be in addition to the fine assessed against the firm. The firm was censured, fined \$37,585.94 (which includes disgorgement of \$12,585.94 in commissions), and ordered to retain an independent consulting firm for one year to review the firm's compliance and written supervisory procedures to determine their adequacy and consistency with applicable laws and regulations. The independent consultant will make written recom-

mentations which the firm will promptly adopt and implement or suggest alternative procedures which the consultant may approve. At least six months, but no longer than a year from the date of the initial report, the consultant will conduct a follow-up review and prepare a written report addressing the firm's compliance and written supervisory procedures. The sanctions were based on findings that Beirne and Greenwald failed to adequately supervise a registered representative so as to detect the unsuitable recommendations the representative made to public customers. The findings also stated that the firm failed to establish and maintain a supervisory system of its registered representatives that was reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. (NASD Case #C07990037)

Lance Reed Dalton (CRD #1944499, Registered Representative, Isle of Palms, South Carolina) was barred from association with any NASD member in any capacity. The sanction was based on findings that Dalton engaged in outside business activities and private transactions and failed to provide prior notification to, or to request approval from, his member firms. The findings also stated that Dalton failed to respond to NASD requests for an on-the-record interview. (NASD Case #C07990044)

Steven Eugene Herron (CRD #1860442, Registered Representative, Largo, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Herron consented to the described sanction and to the entry of findings that he effected sales of promissory notes to public customers, for which he received \$23,124.35 in commissions, without obtaining prior written approval from his member firm. (NASD Case #C07000006)

J. Banks Company (CRD #42570, Boca Raton, Florida) and Jeffrey B. Banks a.k.a. Jeffrey B. Nuss (CRD #2133170, Registered Principal, Highland Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were fined \$125,000, jointly and severally, and the firm was expelled from the NASD. Banks was barred from association with any NASD member in any capacity with the right to reapply after two years and permanently barred from association with any NASD member in a principal or supervisory capacity. Payment of the fine shall be a prerequisite for consideration of any application for reentry by either the firm or Banks. Without admitting or denying the allegations, the firm and Banks consented to the described sanctions and to the entry of findings that the firm, by and through Banks, failed to have a qualified financial and operations principal properly associated with the firm and improperly misrepresented the identity of its alleged financial and operations principal in communications with the NASD. The findings also stated that the firm, by and through Banks, conducted its securities business while failing to maintain the required minimum net capital, failing to keep an accurate general ledger, and making a series of misleading oral and written statements to the NASD regarding alleged violations

of NASD rules and federal securities laws. In addition, the firm permitted an unregistered person to sell the firm's common stock through a private placement offering. (NASD Case #C07990066)

Henry Irvin Judy, Jr. (CRD #2348528, Registered Representative, Hilton Head, South Carolina) was barred from association with any NASD member in any capacity. The sanction was based on findings that Judy converted the funds of a public customer by depositing the customer's check into his business checking account. The findings also stated that Judy engaged in improper communications with the public by distributing sales materials that contained false and misleading information. Judy also failed to respond to NASD requests for information. (NASD Case #C07990024)

Ricky Allen Lubinsky (CRD #1082031, Registered Principal, Orlando, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Lubinsky engaged in unsuitable and excessive trading in the accounts of a public customer. The findings also stated that Lubinsky failed to respond to NASD requests for information and documents. (NASD Case #C07990006)

Leo Morrison (CRD #2618884, Registered Representative, Bonita Springs, Florida) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for four months. Without admitting or denying the allegations, Morrison consented to the described sanction and to the entry of findings that he engaged in private securities transactions for compensation without providing written or oral notification to his member firm. The findings also stated that Morrison sent sales literature to a public customer and failed to have it approved by a registered principal of his firm prior to its use. (NASD Case #C07990061)

Thomas August Rusch (CRD #2685990, Registered Representative, Greenville, South Carolina) was fined \$2,500 and suspended from association with any NASD member in any capacity for 60 days. The sanctions were based on findings that Rusch failed to respond to an NASD request for information in a timely manner. (NASD Case #C07990047)

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

Sylvester Cannon, Jr. (CRD #2766126, Registered Representative, Detroit, Michigan) was fined \$25,000 and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Chicago DBCC decision. The sanctions were based on

findings that Cannon failed to respond to NASD requests for information. (NASD Case #C8A980054)

Chicago Capital, Inc. (CRD #39274, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$3,500 jointly and severally with an individual, and fined an additional \$9,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through an individual, it purchased shares of an initial public offering (IPO), at the IPO price, for the joint account of public customers when trading began at a premium over the IPO price in the secondary market. The firm also inaccurately reported transactions, failed to timely decline or accept transactions in which the firm was the non-reporting member, and inaccurately reported short sales to ACT by failing to include the ".S" modifier. The findings also stated that the firm executed transactions in the Small Order Execution SystemSM (SOESSM) for the accounts of persons associated with the firm when such persons had physical access to a terminal capable of entering orders into SOES. Furthermore, the findings also stated that the firm failed to communicate to the NASD its best bids and offers when it entered proprietary orders into SelectNet[®] at better prices than its published quote and failed to update its published quote or to update its published quote promptly. In addition, the firm failed to prepare or accurately prepare order tickets for transactions and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules, regulations, and NASD laws concerning trading and market-making activities. (NASD Case #C8A990078)

David Lloyd Foran (CRD #861746, Registered Principal, Royal Oak, Michigan) was fined \$35,000 and barred from association with any NASD member in any capacity. Payment of the fine, in full, shall be a prerequisite for consideration of any application for association with a member firm. The sanctions are based on findings that Foran misappropriated more than \$5,000 in commissions from his firm's commission account and misapplied the funds, thereby converting the funds to his own use and benefit.

Foran has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C8A990017)

Norvin Kirkendall (CRD #1617954, Registered Representative, Noblesville, Indiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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, Kirkendall consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, failed to give prior written notice of his intention to engage in such activity to his member firm, and failed to receive prior written approval from his firm. (NASD Case #C8A990073)

February Actions

James Michael Harp (CRD #1109270, Registered Representative, Evansville, Illinois) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Harp transmitted fraudulent electronic insurance applications to his member firm and was credited with commissions for the purported sales. (NASD Case #C8A990036)

LeRoy Kenneth Messenger (CRD #815653, Registered Principal, Elk Grove Village, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Messenger consented to the described allegations and to the entry of findings that he failed to respond to an NASD request to testify in an investigation into activities of his member firm. (NASD Case #C8A990080)

Keith Laurence Mohn (CRD #1085092, Registered Representative, West Bloomfield, Michigan) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The SEC substantially affirmed the sanctions following appeal of a January 1999 NAC decision. The sanctions were based on findings that Mohn participated in private securities transactions without providing prior written notice to his member firm. (NASD Case #C8A960063)

Michele Edwardia Posey (CRD #2435628, Registered Representative, Chicago Heights, Illinois) was barred from association with any NASD member in any capacity and required to pay \$12,500 in restitution. The sanctions were based on findings that Posey withdrew \$12,500 from the accounts of public customers and used the funds for some purpose other than for the benefit of the customers. The findings also stated that Posey failed to respond fully to NASD requests for information concerning withdrawals from customers' accounts and financial documentation. (NASD Case #C8A990059)

March Actions

Frederick & Company, Inc. (CRD #333, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$14,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to correctly identify aggregated transaction reports in Nasdaq National Market[®] (NNM) and Nasdaq SmallCapSM Market securities, failed to prepare accurate last sale reports, and failed to properly report Consolidated Quotation System transactions through the ACT. The findings also stated that the firm improperly disclosed on confirmations that the firm had acted as a Market Maker in principal transactions with customers when, in fact, the firm was not a registered Market Maker and failed to disclose to customers a markup/markdown or similar remuneration. In addition, the

firm sold shares of IPOs to investment partnerships and failed to have current information on file in accordance with the Free-Riding and Withholding Interpretation of the NASD Board of Governors. In connection with private placements, the firm received funds from public customers and deposited the funds into a firm-controlled bank account and failed to establish a reserve bank account and compute a reserve formula requirement. Moreover, the firm failed to establish, maintain, and enforce written supervisory procedures governing its trading and market-making activities, its adherence to free-riding and withholding rules, and its handling of customer funds in private placement offerings. (NASD Case #C8A000003)

Danforth Earl Holley (CRD #2037314, Registered Representative, Grosse Pointe, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Holley consented to the described sanction and to the entry of findings that he opened a checking account and obtained a credit card in the name of a public customer. The findings also stated that Holley sold securities in the customer's account and spent the proceeds totaling approximately \$363,000 for his own use and benefit. (NASD Case #C8A000009)

Daniel Hong (CRD #2497385, Registered Principal, Chicago, Illinois) submitted an Offer of Settlement pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for one year. The fine is due and payable prior to reassociation with a member firm following the suspension or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Hong consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for documents and information in a timely manner. (NASD Case #C8A990079)

Joseph Charles Hutchison (CRD #2031542, Registered Representative, Orion, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hutchison consented to the described sanction and to the entry of findings that he participated in private securities transactions for compensation and failed to give written notice of his intention to engage in such activities to his member firm and failed to receive written approval from his firm prior to engaging in such activities. (NASD Case #C8A000007)

Duane Arthur Nordquist (CRD #1402482, Registered Representative, Panora, Iowa) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$13,000 and barred from association with any NASD member in any capacity. Payment of the fine shall be a prerequisite for consideration of any future application for registration with any member firm. Without admitting or denying the allegations, Nordquist consented to the described sanctions and to the entry of findings that he offered and sold

promissory notes for compensation to public customers and failed to provide written notice to, or to receive written authorization from, his member firm to participate in private securities transactions. (NASD Case #C8A000002)

District 8B - Cleveland

January Actions

Edward Jon Graziano (CRD #1100519, Registered Representative, Fairport, New York) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Graziano failed to respond to NASD requests for information and documents pertaining to his termination from member firms under circumstances concerning his potential outside business activity. (NASD Case #C8B990019)

February Actions

Kelly Barrett Boyd (CRD #2165856, Registered Representative, Hilton, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Boyd consented to the described sanctions and to the entry of findings that she requested a \$10,000 bank check claiming that it was to be sent to a customer, had the check made payable to attorneys representing the builder of and holder of the mortgage on her home which had been foreclosed, and provided the check to the attorneys, partially satisfying her debt and using the funds for her own benefit. The findings also stated that she altered checks totaling \$40,000 by changing the names of the payees in order to use the funds for her own benefit and to pay for personal obligations. (NASD Case #C8B990038)

March Actions

Matthew Franklin Taylor, Jr. (CRD #3013563, Registered Principal, Dayton, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Taylor failed to respond to NASD requests for information concerning his termination from a member firm and his possible participation in private securities transactions. (NASD Case #C8B990027)

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

District 9A - Philadelphia

January Actions

Howard Stephen Blanck (CRD #1815177, Registered Representative, Reading, Pennsylvania) submitted an

Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 15 business days and ordered to pay the sum of \$7,197 to the Trustee appointed by the court in SEC v. The Infinity Group Company et al. within 90 days of the acceptance of the Offer of Settlement. Without admitting or denying the allegations, Blanck consented to the described sanctions and to the entry of findings that he engaged in securities transactions outside of the normal course or scope of his association with a member firm for selling compensation, without providing prior written notice to, or receiving prior written approval from, his member firm. (NASD Case #C9A990046)

Anthony Lamar Green (CRD #3196919, Associated Person, Schwensville, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Green consented to the described sanctions and to the entry of findings that he failed to respond, in writing, to an NASD request for information relating to his termination for cause from a member firm. (NASD Case #C9A990059)

Dwight Raymond Guthrie (CRD #1580936, Registered Representative, Apollo, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$150,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Guthrie consented to the described sanctions and to the entry of findings that he received \$18,661 from a public customer to be applied toward the payment of insurance premiums and/or for investment in securities, failed to apply the funds as directed, and converted the funds to his own use and benefit. The findings also stated that Guthrie failed to respond to NASD requests for information concerning possible misappropriation of customer funds. (NASD Case #C9A990055)

Robert Jay Kendzierski (CRD #1290761, Registered Representative, Erie, Pennsylvania) was fined \$80,000 and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Philadelphia DBCC decision. The sanctions were based on findings that Kendzierski converted \$6,000 in customer funds to his own use and benefit. (NASD Case #C9A980021)

Michael Lee (CRD #3073397, Registered Representative, Owings Mills, Maryland) was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Lee will not be eligible for association with any member firm in any capacity until the fine is paid. The sanctions are based on findings that Lee failed to disclose a misdemeanor theft conviction in Illinois on his Form U-4. (NASD Case #C9A990017)

Charles Anthony Schlapfer (CRD #2045197, Registered Representative, Brick, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$500,000 and barred from association with any NASD member in any capacity. Without admitting or denying the

allegations, Schlapfer consented to the described sanctions and to the entry of findings that he received approximately \$122,956 from public customers for investment, failed to cause the funds to be invested as instructed, and, without the authorization or knowledge of the customers, deposited the funds into either a personal bank account or a bank account owned by his fiancée. Schlapfer converted all but \$22,256 to his own use or benefit. The findings also stated that Schlapfer altered account statements for a public customer's account to falsely reflect a value greater than the actual value of the account and transmitted the false account statements to the customer. (NASD Case #C9A990057)

February Actions

Erik Marcell Carey (CRD #2360041, Registered Representative, College Park, Maryland) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Carey consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving approval from, his member firm, in that he sold shares in an investment company that traded equity options to customers. (NASD Case #C9A990061)

Steven Bruce Freymark (CRD #1179879, Registered Representative, Cherry Hill, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Freymark failed to respond to an NASD request for information regarding a customer complaint alleging that he had misappropriated the customer's funds. (NASD Case #C9A990026)

Terry Michael Hillegas (CRD #1823870, Registered Representative, Salisbury, Pennsylvania) submitted an Offer of Settlement pursuant to which he was censured, fined \$7,500, suspended from association with any NASD member in any capacity for three months, and required to requalify by exam before becoming registered after the suspension. Four thousand dollars of the fine shall be satisfied by paying that amount to the Maryland Securities Division in connection with the settlement of a proceeding. Without admitting or denying the allegations, Hillegas consented to the described sanctions and to the entry of findings that he engaged in the offer and sale, for compensation, of debt securities without providing prior written notice to his member firm. (NASD Case #C9A990040)

Michael Kogan (CRD #2802077, Registered Principal, Warrington, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000, suspended from association with any NASD member in any capacity for 18 months, and required to pay \$12,500 in restitution to a public customer. Satisfactory proof of payment of restitution, or of reasonable and documented efforts undertaken to effect restitution, shall be provided to

the NASD within 120 days after acceptance of this AWC. Without admitting or denying the allegations, Kogan consented to the described sanctions and to the entry of findings that he signed the names of public customers on forms used to transfer and open brokerage accounts for the customers without their knowledge or consent. The findings also stated that Kogan effected a transaction involving the purchase of stock in a speculative private placement offering for a customer's account and did not have reasonable grounds for believing that the recommendation and resultant transaction were suitable based on the customer's financial situation, investment objectives, and needs. In addition, Kogan failed to supervise a sales representative adequately in that the representative made unsuitable recommendations to a customer and Kogan failed to take adequate steps to confirm that the transactions were proper. (NASD Case #C9A990063)

Vaughn Miles Mungin (CRD #1507144, Registered Principal, Bowie, Maryland) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000, suspended from association with any NASD member in any capacity for two months, and required to pay \$22,500 in restitution to public customers. Satisfactory proof of payment of restitution, or of reasonable and documented efforts undertaken to effect restitution, shall be submitted to the NASD within 120 days of acceptance of this AWC. Without admitting or denying the allegations, Mungin consented to the described sanctions and to the entry of findings that he exercised effective control over the account of a public customer and recommended numerous purchases and sales of securities without having reasonable grounds for believing the transactions were suitable in view of the size and frequency of the transactions and the nature of the account. The findings also stated that Mungin effected a transaction involving the purchase of stock in a speculative private placement offering for the account of another public customer without reasonable grounds for believing the recommendation and resultant transaction were suitable based on the customer's financial situation, investment objectives, and needs. (NASD Case #C9A990062)

USA Capital, Inc. (CRD #19674, Philadelphia, Pennsylvania) and **Sean Michael Sweeney (CRD #2056728, Registered Principal, Bryn Mawr, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$14,500, jointly and severally. Without admitting or denying the allegations, the firm and Sweeney consented to the described sanctions and to the entry of findings that the firm, acting through Sweeney, failed to comply with the terms of its restrictive agreement when it effected transactions in equity securities, municipal securities, options, and government bonds. The findings also stated that the firm, acting through Sweeney, conducted general securities and municipal businesses without having either a qualified and registered financial and operations principal or a qualified and registered municipal securities principal. (NASD Case #C9A990065)

March Actions

John Thomas Davis (CRD #62264, Registered Representative, East Pittsburgh, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Davis received checks totaling \$40,188 from a public customer for deposit in the customer's account at his member firm, failed to deposit the checks, made the checks payable to himself, and converted the funds to his own use. The findings also stated that Davis failed to respond to NASD requests for information. (NASD Case #C9A990052)

Nathaniel Gaddy (CRD #1069005, Registered Representative, Mount Laurel, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gaddy consented to the described sanction and to the entry of findings that he caused unauthorized withdrawals totaling \$75,600 from the variable annuity contract of a public customer and converted the proceeds to his own use and benefit. The findings also stated that Gaddy failed to respond to NASD requests for information and documents. (NASD Case #C9A000003)

Alex Osterneck (CRD #1663321, Registered Representative, Bryn Mawr, Pennsylvania) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Osterneck consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information completely or to respond in a timely manner. (NASD Case #C9A990050)

Robert Murray Smith (CRD #428820, Registered Representative, Bryn Mawr, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, suspended from association with any NASD member in any capacity for 45 days, suspended from association with any NASD member in any principal capacity for one year, and required to requalify by passing the Series 7 exam within 90 days after the acceptance of this AWC. If Smith fails to requalify within the 90 days, he may not continue to function as a registered representative until he does so. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he recommended and engaged in purchase and sale transactions in the accounts of public customers without having reasonable grounds for believing that such recommendations and resultant transactions were suitable based on financial situation, investment objectives, needs, size and frequency of transactions, and the nature of the accounts. The findings also stated that Smith exercised discretion in the accounts of public customers without having obtained prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm. (NASD Case #C9A000002)

District 9B - New Jersey

January Actions

Linh Julia Dyer (CRD #2530791, Registered Representative, Keansburg, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Dyer failed to respond to NASD requests for information regarding an allegation of converting customer funds. (NASD Case #C9B990017)

Arnold J. Feldman (CRD #1132591, Registered Representative, Long Beach, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Feldman consented to the described sanctions and to the entry of findings that he received checks totaling \$2,469 from public customers to be deposited with his member firm for purposes of restoring funds which had previously been drawn against their insurance policies, failed to deposit the checks, and instead, converted the funds to his own use and benefit without the customers' knowledge or consent. The findings also stated that Feldman misrepresented to the customers that the checks were required to be issued to replace other checks which his firm had issued in error and which had been drawn against their insurance policies when, in fact, the checks were not issued in error but were issued at the request of Feldman without the customers' consent. (NASD Case #C9B990036)

Steven Douglas Goodman (CRD #1510905, Registered Principal, Allison Park, Pennsylvania) was fined \$75,000 and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Washington, D.C. DBCC decision. The sanctions were based on findings that Goodman engaged in sales practice abuses that included material misrepresentations and omissions and unfounded price predictions.

Goodman has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal. (NASD Case #C9B960013)

Vito Gerard Padulo (CRD #2370645, Registered Representative, Englishtown, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Padulo failed to respond to NASD requests for information concerning a customer complaint. (NASD Case #C9B990015)

February Actions

Thomas Joseph Graham (CRD #716766, Registered Principal, Lutherville, Maryland) submitted an Offer of Settlement pursuant to which he was censured and fined \$15,300 which includes disgorgement of \$1,800 in commissions earned. Without admitting or denying the allegations, Graham consented to the described sanctions and to the entry of findings that he falsely represented on public cus-

tomers variable annuity applications and other investment forms that he was the "registered representative" for the sales when, in fact, they were sold by another registered representative. (NASD Case #C9B990009)

Mark Robert Polakowski (CRD #2789210, Registered Representative, Hackensack, New Jersey) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Polakowski consented to the described sanctions and to the entry of findings that he signed a customer's name on an insurance policy delivery receipt form although the customer never received the policy, without the customer's knowledge or consent. The findings also stated that Polakowski failed to respond to NASD requests for information. (NASD Case #C9B990032)

Jason Thane Reddish (CRD #2516090, Registered Representative, Woodbury, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Reddish consented to the described sanctions and to the entry of findings that he recommended and engaged in transactions in the account of a public customer and did not have reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customer on the basis of financial situation, size and frequency of the transactions, nature of the accounts, investment objectives, and needs. (NASD Case #C9B990038)

Earl John Rusnak (CRD #1503669, Registered Principal, Highland Park, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Rusnak failed to respond to NASD requests for information about a customer complaint concerning unauthorized purchases of a particular stock. (NASD Case #C9B990018)

W&D Securities, Inc. (CRD #867, Jersey City, New Jersey) and Donald Wiese (CRD #1489608, Registered Principal, Managapan, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$20,000, jointly and severally. Wiese was also suspended from association with any NASD member in any principal capacity for 15 days. Without admitting or denying the allegations, the firm and Wiese consented to the described sanctions and to the entry of findings that Wiese was the president and a director of the firm and actively involved in the management of the firm's exchange floor trading operations without being registered with the NASD in any capacity. The firm allowed him to act in such a manner without being registered as a general securities principal. The findings also stated that the firm, acting through Wiese, failed to establish, maintain, and enforce adequate written supervisory procedures to prevent the above violations. (NASD Case #C9B990040)

March Actions

Michael Anthony Dietze (CRD #2692450, Registered Representative, Iselin, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Dietze consented to the described sanction and to the entry of findings that he failed to amend his Form U-4 to disclose that he was the subject of an investigation by the New York County District Attorney's Office. (NASD Case #C9B000001)

Michael Earl Hughes (CRD #1099917, Registered Principal, Highland Park, New Jersey) was fined \$5,000, suspended from association with any NASD member in any capacity for two years, and ordered to pay \$783.24 in restitution to his member firm. The fine is due and payable upon reentry into the securities industry. The sanctions were based on findings that Hughes accessed his account records for his firm's "advantage" credit line, increased his line of credit by \$800, and used the increased line of credit for transactions and purchases totaling \$783.24, without the firm's consent or authority. (NASD Case #C9B990004)

Robert Franklin Mueller (CRD #2756171, Registered Representative, Edison, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mueller consented to the described sanction and to the entry of findings that he signed the signatures of public customers on property and casualty takeover request forms without the knowledge or consent of the customers and falsely testified during an NASD on-the-record interview that the customers had signed the forms. (NASD Case #C9B000002)

Desh Deepak Sahni (CRD #2652421, Registered Representative, Glen Cove, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. The fine shall be due and payable prior to reassociation with a member firm or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Sahni consented to the described sanctions and to the entry of findings that he failed to disclose an arrest on a compliance disclosure form that he submitted to a member firm. (NASD Case #9B000005)

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

January Actions

Stephen F. Agnese (CRD #2529358, Registered Principal, Staten Island, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Agnese consented to the described sanctions

and to the entry of findings that he failed to respond to NASD requests for information and to provide documents. (NASD Case #C10990153)

Neil Howard Brauner (CRD #2571484, Registered Representative, New York, New York) was fined \$10,000 and suspended from association with any NASD member in any capacity for two years for material misrepresentations; fined \$2,500 and suspended from association with any NASD member in any capacity for 30 business days for guaranteeing a customer against loss; and barred from association with any NASD member in any capacity for effecting unauthorized transactions and providing false information to a request for information. Payment of the fines shall be a condition to Brauner's eligibility to associate with a member firm. The sanctions were based on findings that Brauner misrepresented that he was placing stop-loss orders on stock purchases sold to public customers to induce them to purchase stock and guaranteed a customer that he would not suffer a loss on a purchase. The findings also stated that Brauner engaged in unauthorized transactions in a customer's account and effected transactions in another customer's account after the customer had sent Brauner written direction to liquidate and close the account. In addition, Brauner failed to respond truthfully to an NASD request for information. (NASD Case #C10990081)

Colonial Securities, Inc. (CRD #3013, New York, New York), Yee Yee Wong (CRD #809335, Registered Principal, Flushing, New York) and David Wong (CRD #2095703, Registered Principal, Flushing, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$12,500, jointly and severally. The firm and Y. Wong were fined an additional \$1,000, 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 Y. Wong and D. Wong, failed to maintain adequate written supervisory procedures covering the receipt of customer checks, review of customer transactions to prevent excessive cancellations and the use of the firm's error account, NASD reporting requirements, the need to conduct an annual needs analysis and to develop an employee training plan, and the designation of a principal to be in charge of each business conducted by the firm. The findings also stated that the firm failed to conduct a Continuing Education needs analysis, establish a satisfactory training plan, and evidence that training was conducted for two years. The firm also failed to report to the NASD a settlement of \$25,717.97 with a public customer. In addition, the firm, acting through Y. Wong, conducted a securities business while failing to maintain its minimum required net capital. (NASD Case #C10990203)

Marc Jason Dannenberg (CRD #2569254, Registered Representative, Thornwood, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 17 months and one week. Without admitting or denying the allegations, Dannenberg consented to the described sanctions and to the entry of

findings that he effected a transaction in the securities account of a public customer without the customer's prior knowledge, authorization, or consent and left a threatening message on the customer's home telephone answering machine after he refused to pay for the stock purchase. The findings also stated that Dannenberg made false statements on his Form U-4 concerning violations of state investment regulations or statutes. (NASD Case #C10990199)

Charles A. DiMaggio (CRD #2443379, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to disgorge \$70,332.45 in earnings to the NASD. Without admitting or denying the allegations, DiMaggio consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 exam on his behalf and refused to appear for an NASD on-the-record interview. (NASD Case #C10990194)

Alina Fuentes (CRD #2812427, Registered Representative, Pacoima, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$90,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fuentes consented to the described sanctions and to the entry of findings that she falsified an annuity application, established a fraudulent annuity policy in the name of a fictitious individual, created the impression that the annuity was funded with the use of a fraudulent check, and sent a letter to her member firm in the name of the fraudulent individual instructing the firm to cancel the policy and refund the cost which resulted in a \$9,382 refund check being issued. The findings also stated that Fuentes endorsed the check and deposited it into her personal bank account. (NASD Case #C10990197)

David Burton Hollister (CRD #1732780, Registered Representative, New York, New York) submitted an Offer of Settlement pursuant to which he was fined \$25,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by examination within 180 days from the date he becomes associated with any NASD member firm following his one-year suspension. Without admitting or denying the allegations, Hollister consented to the described sanctions and to the entry of findings that he electronically entered fictitious trades on the books and records of his member firm. (NASD Case #C10990148)

Joseph Imbrenda (CRD #2624795, Registered Representative, Holmdel, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Imbrenda consented to the described sanctions and to the entry of findings that he intentionally and willfully gave false, misleading, inaccurate, and/or incomplete testimony in response to questions posed to him by the New Jersey Bureau of Securities examiners regarding his and his

member firm's sales and business practices. (NASD Case #C10990129)

Peter S. Lau (CRD #866720, Registered Representative, Edison, New Jersey) was fined \$25,000, barred from association with any NASD member in any capacity, and ordered to pay \$75,114, plus interest, in restitution to a public customer. The fine and restitution must be paid before Lau can be eligible for future association with a member firm. The sanctions are based on findings that Lau received over \$75,000 for investment purposes from a public customer, failed to invest the funds, and converted all but \$1,500 to his own use and benefit. The findings also stated that Lau failed to respond to NASD requests for information. (NASD Case #C10990119)

Charles Michael Lee, III (CRD #2320124, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Lee consented to the described sanctions and to the entry of findings that he unsuccessfully attempted to induce a customer to purchase stock by assuring the customer he could cancel the trade if the investment was not profitable within two weeks and falsely told the customer that he had personally bought shares of the stock when he had not done so. The findings also stated that Lee falsified account records to reflect a different home state for the customer in order to sell the stock which was not registered for sale under the laws of the customer's state of residence. (NASD Case #C10990138)

Joseph John Librandi (CRD #2642824, Registered Representative, Massapequa Park, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam as either a general securities representative (Series 7) or a corporate securities representative (Series 62) by March 28, 2000. Failure to requalify by that date will result in suspension from association with any member firm in any capacity until Librandi passes a registration exam. Without admitting or denying the allegations, Librandi consented to the described sanctions and to the entry of findings that he executed a purchase of stock in a public customer's account without the customer's authorization, consent, or knowledge of the transaction. (NASD Case #C10990201)

Scott Farrell Merlis (CRD #1222722, Registered Representative, Westport, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$9,000, ordered to requalify as a general securities representative within 90 days of approval of this AWC by the NASD, and required to disgorge \$14,427.35 in profits to the NASD. If Merlis fails to requalify, he cannot associate with any NASD member in any capacity until he requalifies. Without admitting or denying the allegations, Merlis consented to the described sanctions and to the entry of findings that, while associated with a member firm, he purchased securities in IPOs through a brokerage account that

he maintained with another member firm. The IPOs traded at a premium in the immediate aftermarket and were thus "hot issues." The findings also stated that Merlis failed to notify his member firm promptly that he had maintained a brokerage account with another firm. (NASD Case #C10990200)

Philip John Milligan (CRD #1874103, Registered Principal, Guttenberg, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Milligan failed to respond to NASD requests to appear for on-the-record testimony. (NASD Case #C10990058)

Michael Motsykulashvili (CRD #2382306, Registered Representative, Hicksville, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Motsykulashvili consented to the described sanctions and to the entry of findings that he induced public customers to purchase securities by making predictions that were without adequate, accurate, or reasonable basis in fact and purchased securities for public customers without their prior knowledge, authorization, or consent. (NASD Case #C10990209)

Henri Placek (CRD #2676196, Registered Representative, London, England) submitted an Offer of Settlement pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Placek consented to the described sanctions and to the entry of findings that he interfered with market forces and placed the interests of his member firm ahead of those of a customer. (NASD Case #C10990052)

Anthony Michael Tanico (CRD #2400898, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$75,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$134,334 to the NASD. Without admitting or denying the allegations, Tanico consented to the described sanctions and to the entry of findings that he arranged for an impostor to take the Series 7 and Series 63 qualification exams on his behalf. Tanico also failed to complete an NASD on-the-record interview. (NASD Case #C10990204)

Charles Burtran Walker (CRD #1893276, Registered Representative, South Orange, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Walker consented to the described sanctions and to the entry of findings that he engaged in business activities outside his employment with a member firm and failed to provide his firm with prompt, or any, prior written notice of his activities. (NASD Case #C10990113)

February Actions

Michael Louis Accurso (CRD #1900337, Registered Principal, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Accurso consented to the described sanctions and to the entry of findings that he had an impostor sit for and complete the Series 7 qualification exam on his behalf. Accurso also failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10990195)

Keith Michael Bleich (CRD #2372764, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$290,868.18, which includes disgorgement of \$215,868.18 in monies earned, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bleich consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 and Series 63 qualification exams on his behalf and failed to appear for an on-the-record interview with the NASD. (NASD Case #C10990208)

Chris Jon Brainard (CRD #2687215, Registered Representative, Pleasantville, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000, suspended from association with any NASD member in any capacity for 20 business days, and ordered to disgorge \$4,021.35 in commissions to the NASD. Without admitting or denying the allegations, Brainard consented to the described sanctions and to the entry of findings that he submitted new customer account documents to his member firms that he knew, or should have known, were incomplete. The findings also stated that Brainard failed to make a bona fide public distribution of initial public offerings, each of which traded at a premium in the immediate secondary markets. (NASD Case #C10990224)

DJS Securities Limited (CRD #13353, New York, New York) submitted an Offer of Settlement pursuant to which the firm was censured, fined \$15,000, and fined an additional \$2,500, jointly and severally, with a registered representative. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, acting through individuals, engaged in a municipal securities business without prior notification to the NASD in violation of the firm's membership agreement and failed to employ the services of a qualified municipal securities principal. (NASD Case #C10990099)

Shane Tyrone Ferras (CRD #2172005, Registered Principal, Bayville, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Ferras failed to respond to NASD requests for information relating to an allegation that he effected unauthorized transactions. (NASD Case #C10990070)

Robert Francis Fox (CRD #1635033, Registered Representative, Jersey City, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Fox failed to appear for NASD on-the-record interviews and to respond to NASD requests for information and documents regarding the underwriting activities of a former member firm. (NASD Case #C10990098)

Anthony James Frisone (CRD #2362943, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Frisone consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 qualification exam on his behalf and failed to complete an NASD on-the-record interview. (NASD Case #C10990219)

John Carmine Infantino (CRD #869581, Registered Principal, Commack, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Infantino failed to respond to NASD requests for information and documents pertaining to a member firm and its books and records. (NASD Case #C10990125)

John Joseph Lee (CRD #1264054, Registered Principal, West Babylon, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for nine months. Without admitting or denying the allegations, Lee consented to the described sanctions and to the entry of findings that he was directly engaged in the management, direction, or supervision of an underwriting when he was not qualified as a municipal securities principal. The findings also stated that he represented himself to be an authorized officer of his firm at the closing of the issue when, in fact, he was not. In addition, Lee provided false information to the NASD when questioned as to who had been the firm's municipal securities principal at the time of the undertaking.

Because Lee is already serving a previous suspension, his suspension for the above Offer will commence on August 4, 2000, and will conclude on May 4, 2001. (NASD Case #C10990037)

Northeast Securities, Inc. (CRD #25996, Mitchell Field, New York) and Randi Patrice Mason (CRD #722302, Registered Principal, East Norwich, New York) submitted an Offer of Settlement pursuant to which they were censured and fined \$10,500, jointly and severally. Without admitting or denying the allegations, the firm and Mason consented to the described sanctions and to the entry of findings that the firm, acting through Mason, failed to file quarterly reports with the NASD disclosing reportable customer complaints and failed to establish, maintain, and enforce written supervisory procedures designed to reasonably achieve compliance with the NASD rule pertaining to the customer complaint reporting requirement. (NASD Case #C10990165)

Peter Charles Pessoni, Jr. (CRD #2188339, Registered Representative, West Islip, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Pessoni failed to respond to NASD requests for information regarding a customer complaint alleging possible misrepresentations and the failure to execute a sell order. (NASD Case #C10990091)

Karl Eton Roberts (CRD #2368514, Registered Representative, Westbury, New York) submitted an Offer of Settlement pursuant to which he was fined \$3,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Roberts 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. (NASD Case #C10990150)

Ryan Leslie Rothstein (CRD #2400151, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$50,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$697,197.80 to the NASD. Without admitting or denying the allegations, Rothstein consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 qualification exam on his behalf and failed to appear for an NASD on-the-record interview. (NASD Case #C10990207)

Nathaniel Lee Sain (CRD #2618922, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Sain failed to respond to NASD requests for information regarding a customer complaint concerning unauthorized trading. (NASD Case #C10990064)

Michael Van Smith (CRD #2651979, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000, which includes disgorgement of \$261.50 in commissions earned; suspended from association with any NASD member in any capacity for 30 business days; ordered to pay \$6,625.85, plus interest, in restitution to public customers; and required to requalify by exam as a general securities representative within 90 days of issuance of this AWC. If Smith fails to requalify within this time period, he cannot associate with any NASD member firm in any capacity until he does requalify. The fine, disgorgement, and restitution are due and payable prior to reassociation following the suspension or prior to any application or request for 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 executed transactions for the joint account of public customers without their prior knowledge, authorization, or consent. (NASD Case #C10000008)

Harry H. Son (CRD #2878916, Registered Representative, Great Neck, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500, suspended from association with any NASD member in any

capacity for two years, and required to requalify by exam as a general securities representative. If Son becomes registered after completion of his suspension, his member firm must adopt and implement compliance programs and procedures to monitor his conversations with public customers and incoming/outgoing mail between Son and public customers to ensure compliance with federal securities laws and NASD rules and regulations for a period of 12 months. The fine is due and payable upon reentry or prior to any application for relief from statutory disqualification. Without admitting or denying the allegations, Son consented to the described sanctions and to the entry of findings that, during a telephone solicitation to a public customer, he gave false and misleading information and misrepresented his identity by using the name of another registered representative. (NASD Case #C10000001)

Joseph Teseo (CRD #2182666, Registered Representative, Atlantic Beach, New York) was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine is due upon reentry to the securities industry. The sanctions were based on findings that Teseo failed to respond in a timely manner to NASD requests for information about a customer complaint. (NASD Case #C10990089)

Louis Jahi Walthall (CRD #2856591, Registered Representative, Wyandanch, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Walthall consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information regarding a customer complaint. (NASD Case #C10990167)

Christopher John Zekakos (CRD #2466593, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Zekakos failed to respond to NASD requests for information regarding a customer complaint alleging he engaged in fraudulent advertising and sales practices. (NASD Case #C10990071)

Chester Edward Zyskowski (CRD #1180609, Registered Representative, Bayonne, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Zyskowski received cash payments totaling \$240 from a public customer to be applied in payment of premiums for life insurance policies, failed to forward these payments to his member firm, and improperly used the funds. The findings also stated that Zyskowski failed to respond to an NASD request for information. (NASD Case #C10990156)

March Actions

Aroon K. Benny (CRD #2927597, Associated Person, Woodside, New York) was barred from association with any NASD member in any capacity. The sanction is based on findings that Benny failed to respond to NASD requests for

information regarding possible misappropriation of funds. (NASD Case #C10990133)

Howard Charles Berkowitz (CRD #1293296, Registered Principal, Highland Mills, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$20,000, suspended from association with any NASD member in any capacity for 90 days, required to disgorge \$3,731 in commissions to the estate of a public customer, and required to requalify as a general securities representative within 90 days from the date this AWC is issued by the NASD. If Berkowitz fails to requalify within the mandated period, he will be suspended from association with any member firm in that capacity until such exam is successfully completed. Without admitting or denying the allegations, Berkowitz consented to the described sanctions and to the entry of findings that he exercised discretion in the account of a public customer without written authority and without the knowledge and approval of his member firm. The findings also stated that Berkowitz failed to make reasonable efforts to obtain current information concerning the customer's investment objectives and financial, tax, and health status before making recommendations pursuant to his verbal discretionary authority. (NASD Case #C10000020)

Brent Paul Calderone (CRD #2661084, Registered Representative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction is based on findings that Calderone failed to respond to NASD requests for information regarding possible unauthorized transactions in a customer account. (NASD Case #C10990154)

Steven Berti Carosso (CRD #1476354, Registered Principal, Hackensack, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Carosso consented to the described sanctions and to the entry of findings that he submitted a request for payment form to his member firm that misrepresented the nature of the expense with a fictitious invoice for reimbursement of \$6,600 in alleged expenses. (NASD Case #C10000025)

Paul E. Colontino (CRD #2407870, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Colontino used an impostor to take the Series 7 exam on his behalf. The findings also stated that Colontino failed to respond to NASD requests for information and for on-the-record interviews. (NASD Case #C10990059)

Daniel Scott Hernandez (CRD #2673877, Registered Representative, Hicksville, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hernandez consented to the described sanction and to the entry of findings that he made a cold call to a public customer, misrepresenting his

background and experience and the number of branches his firm had across the country. The findings also stated that Hernandez failed to appear for an NASD on-the-record interview regarding the cold call to the customer. (NASD Case #C10990198)

Maxcor Financial, Inc. (CRD #19801, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$41,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, through its Euro Brokers division, it created inaccurate books and records through the use of an inactive customer account as a suspense account and failed to provide timely notice to the NASD of the inaccurate books and records. The findings also stated that Euro Brokers failed to establish written supervisory procedures that designated the principals in the operations department and set forth their responsibilities. (NASD Case #C10000007)

Michael Stanley Muscarella (CRD #2530037, Registered Principal, East Brunswick, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Muscarella consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for documents and/or information. (NASD Case #C10990218)

Erik Michael Nerzig (CRD #2616141, Registered Representative, Melville, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$18,189 (including \$3,189 representing disgorgement of commissions earned), suspended from association with any NASD member in any capacity for 60 business days, and required to pay \$43,874, plus interest, in restitution to a public customer. Nerzig must also requalify by exam as a general securities representative within 90 days from the date the AWC is accepted by the NAC. If he fails to requalify within this period, he will be suspended from acting in such capacity until the exam is successfully completed. Payment of the fine and satisfactory proof of payment of restitution will be prerequisites of any application for reentry. Without admitting or denying the allegations, Nerzig consented to the described sanctions and to the entry of findings that he solicited a public customer to purchase units in an IPO and minimized the investment risks and made unwarranted price predictions. The findings also stated that Nerzig's recommendation was unsuitable because the stock was speculative and involved a high degree of risk. (NASD Case #C10000016)

Ralph Anthony Stingo (CRD #729783, Registered Representative, Bellerose Terrace, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Stingo consented to the described sanctions and to the entry of findings that he

deposited \$5,467.23 of customer funds into his personal account, thereby commingling the monies with other funds. (NASD Case #C10000017)

Thomas Arthur Turnure (CRD #1316278, Registered Principal, Wyckoff, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify as a general securities principal. Without admitting or denying the allegations, Turnure consented to the described sanctions and to the entry of findings that he failed to report customer complaints received by his former member firm to the NASD. (NASD Case #C10000003)

William Scott & Co., LLC (CRD #14979, Union, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$32,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report customer complaints received by the firm to the NASD and permitted a registered representative to conduct a securities business while his securities industry registrations were inactive as a result of his failing to satisfy the Regulatory Element of the Continuing Education requirement. The findings also stated that the firm failed to have all of its covered registered representatives participate in the Firm Element of the Continuing Education program and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable rules of the NASD concerning the Regulatory and Firm Elements of Continuing Education. (NASD Case #C10000004)

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

Craig Thomas Butzbach (CRD #1348291, Registered Representative, East Greenwich, Rhode Island) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Butzbach consented to the described sanctions and to the entry of findings that he made improper use of \$10,000 belonging to a client. (NASD Case #C11990051)

Robert John Eldridge (CRD #1059162, Registered Principal, Cumberland, Rhode Island) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Eldridge failed to respond to NASD requests for information relating to his activities in connection with trading losses and a deficit in one of his member firm's proprietary accounts. (NASD Case #C11990027)

Bruce Alan Hawkes (CRD #1073573, Registered Representative, North Reading, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and required to pay \$9,603, plus interest, in restitution to public customers. Without admitting or denying the allegations, Hawkes 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 and received \$9,603 in commissions as a result of the transactions. (NASD Case #C11990049)

John Francis Mara (CRD #1646745, Registered Representative, Bedford, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$70,000, which includes the disgorgement of \$68,750 in earned commissions, and suspended from association with any NASD member in any capacity for four months. Without admitting or denying the allegations, Mara consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving prior written notice to, or receiving approval from, his member firm and received \$68,750 in commissions as a result of those transactions. (NASD Case #C11990052)

Frank Mark Paladino, Jr. (CRD #1503957, Registered Representative, Guilford, Connecticut) was fined \$59,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Paladino used a public customer's credit card and withdrew \$9,800 from her account at his member firm, without her authorization, and converted the funds to his own use and benefit. (NASD Case #C11990024)

February Actions

Irwin Morton Alickman (CRD #2363877, Registered Representative, Andover, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five months. Without admitting or denying the allegations, Alickman consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving approval from, his member firm. (NASD Case #C11990057)

Scott Thomas Fleming (CRD #1326991, Registered Principal, New Canaan, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$70,000 which includes the disgorgement of about \$60,000 in financial benefit received. Without admitting or denying the allegations, Fleming consented to the described sanctions and to the entry of findings that, while registered as a general securities principal of a firm, he opened a personal securities account at another firm and purchased shares in IPOs that traded at a premium upon the commencement of the secondary market and as such were considered "hot issues." (NASD Case #C11990058)

David Peter Gerstenblatt (CRD #221406, Registered Representative, Newton, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$20,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Gerstenblatt consented to the described sanctions and to the entry of findings that he misused customer funds totaling \$45,135. (NASD Case #C11990056)

Daniel Richard Howard (CRD #1112346, Registered Representative, Cambridge, Massachusetts) was fined \$25,000 and suspended from association with any NASD member in any capacity for 180 days. The sanctions were based on findings that Howard made unsuitable recommendations to a public customer in that the recommended securities failed to match the investment objectives and needs of the customer. The findings also stated that Howard caused the filing of an inaccurate Form U-4 and subsequently failed to update his Form U-4 to disclose a pending NASD investigation.

Howard has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C11970032)

Boutros Fouad Mansour (CRD #2426615, Registered Principal, Manchester, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity and ordered to disgorge \$52,450, plus interest, in ill-gotten gains to his member firm and public customers. Without admitting or denying the allegations, Mansour consented to the described sanctions and to the entry of findings that he improperly converted \$52,450 belonging to clients for his own use and benefit. (NASD Case #C11990055)

Armand John Mastraccio (CRD #1504679, Registered Representative, Utica, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$23,072, which includes disgorgement of \$18,072 in commissions earned, and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Mastraccio consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving approval from, his member firm and received \$18,072 in commissions as a result of these transactions. (NASD Case #C11990054)

Professional Planning & Technologies, Inc. (CRD #17234, Warwick, Rhode Island) and Harry Harootunian (CRD #237375, Registered Principal, Cranston, Rhode Island) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$20,000, jointly and severally. In addition, the firm is required to file all proposed advertising and sales literature with the NASD 15 business days prior to use for a period of three years. If the NASD submits comments on the material, it shall be immediately withheld from further circulation and distribution until the specified changes have been made unless the firm is otherwise notified. The revised material shall be refiled again 15

business days before use unless otherwise agreed to by the NASD. Without admitting or denying the allegations, the firm and Harootunian consented to the described sanctions and to the entry of findings that the firm, acting through Harootunian, distributed sales materials that contained misleading information and failed to address adequately the risks of an offering necessary to provide the reader with a sound basis for evaluating the investment. In total, the sales materials were not based on principles of fair dealing and good faith. (NASD Case #C11990059)

James Edward Rufo (CRD #1219023, Registered Representative, Clifton, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rufo consented to the described sanctions and to the entry of findings that he made improper use of \$28,768 belonging to a client. (NASD Case #C11990060)

March Actions

Edward Daniel McKechnie (CRD #2321046, Registered Representative, North Branford, Connecticut) was barred from association with any NASD member in any capacity. The sanction was based on findings that McKechnie impersonated insurance policyholders in telephone calls, requested and obtained unauthorized changes of address for the policyholders which changed their addresses to his home address, and requested dividend releases that were sent to his home. The findings also stated that McKechnie forged the policyholders' signatures on the checks and deposited the checks into his personal account, thereby converting funds belonging to his customers to his own use and benefit. (NASD Case #C11990043)

Enforcement Department

January Actions

Howard Brett Berger (CRD #2284367, Registered Principal, Roslyn Heights, New York) submitted an Offer of Settlement pursuant to which he was fined \$20,000, suspended from association with any NASD member in a principal capacity for two years, suspended from association with any NASD member in any capacity for 120 days, and required to comply with an undertaking to never serve as a Director of Compliance or to otherwise function as the highest ranking person in the compliance department of any NASD member. Without admitting or denying the allegations, Berger consented to the described sanctions and to the entry of findings that he, acting with at least one other individual, placed over 15 percent of the total offering of an IPO into customer accounts and arranged with the customers to sell their units back to his member firm in the immediate after-market trading of the security or reasonably believed the purchasing customers would sell their units back to the firm in the immediate aftermarket trading of the security. The firm,

acting through Berger and another individual, bid for and purchased securities which were the subject of the distribution and induced other persons to purchase such securities before the distribution was completed. The firm's other customers were not informed of the "flipping" or that the IPO was not a bona fide public distribution. The findings also stated that Berger failed to take steps to register unregistered individuals who were selling securities for his firm or to prevent them from selling while unregistered. In addition, Berger failed to establish and maintain adequate written supervisory procedures to address compliance with securities laws and regulations pertaining to the underwriting and distribution of securities. (NASD Case #CAF980098)

Richard Stephen Levitov (CRD #602479, Registered Principal, Bayonne, New Jersey) and Ralph Joseph Angeline (CRD #6094, Registered Principal, Katonah, New York) were each suspended from association with any NASD member in any capacity for one year. At the end of one year, each will be barred if he has not fully and unconditionally provided NASD with on-the-record testimony. The NAC imposed the sanctions following appeal by NASD Regulation's Department of Enforcement and cross-appeal by Levitov and Angeline of an NASD Regulation Hearing Panel decision. The sanctions were based on findings that Levitov and Angeline failed to respond to an NASD request to appear for on-the-record testimony after having been denied continuance requests.

Levitov's and Angeline's suspensions began at the opening of business on December 2, 1999, and, if the conditions imposed in the decision are satisfied, will conclude at the close of business on December 1, 2000. (NASD Case #CAF980025)

February Actions

None

March Actions

Herman Epstein (CRD #201696, Registered Principal, Franklin Lakes, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Epstein failed to respond to an NASD request for information and to appear for testimony in connection with an investigation. (NASD Case #CAF980013)

Market Regulation Committee

January Actions

King Financial Services, Inc. (CRD #25843, Iselin, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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 respond in a timely manner to NASD requests for an automated submission of trading data for NNM securities and one request for an automated submission of trading data for a non-Nasdaq security. The findings also stated that the firm submitted an automated submission of trading data more than 30 days after the date such information was required to be provided. (NASD Case #CMS990157)

Piper Jaffray, Inc. (CRD #665, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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 provide its customers with written notification of the reported trade price in transactions and, in one case, failed to provide the customer with written notification that the price he received was an average price. The findings also stated that the firm failed to immediately display customer limit orders either when the orders were at a price that would have improved the firm's bid or offer in each security related to those orders or when the orders were priced equal to the firm's bid or offer and the national best bid or offer and the orders represented more than a de minimus change in relation to the size associated with the firm's bid or offer in each security. In addition, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules regarding limit order display and protection, best execution, trade reporting, and the use of SOES. (NASD Case #CMS990145)

PMK Securities & Research, Inc. (CRD #40145, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$13,500. 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 in NNM securities to ACT, failed to identify to ACT aggregated transaction reports in NNM securities in a manner directed by the NASD, and improperly aggregated individual executions in an NNM security into a single transaction report. The findings also stated that the firm failed to identify order tickets of aggregated trades in NNM securities in a manner directed by the NASD; failed to show the correct time of execution on the memorandum of brokerage orders; and, while acting in instances as principal for its own account, failed to provide written notification disclosing to its customer that it was a Market Maker. In addition, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable laws, regulations, and NASD rules regarding transaction reporting, recordkeeping, and customer confirmation disclosures. (NASD Case #CMS990156)

SK International Securities Corporation (CRD #7850, San Diego, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$12,000, and required to submit revised supervisory procedures to the NASD pertaining to the findings in this AWC. Without admitting or denying the allegations, the firm con-

sented to the described sanctions and to the entry of findings that it failed to transmit through ACT transactions in NNM and OTC equity securities in a timely manner and failed to designate such transactions as late to ACT, thereby engaging in a pattern or practice of late transaction reporting without exceptional circumstances. The findings also stated that the firm incorrectly reported to ACT whether it had executed trades as principal or agent in transactions. In addition, the findings stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable laws, regulations, and NASD rules concerning transaction reporting and ACT compliance. (NASD Case #CMS990158)

Sterling Foster & Co., Inc. (CRD #36052, Uniondale, New York) and Adam Richard Lieberman (CRD #1466902, Registered Principal, Roslyn Heights, New York) submitted an Offer of Settlement pursuant to which they were censured and the firm was expelled from membership in the NASD. Lieberman was fined \$1,000,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm and Lieberman engaged in a recurring pattern of improper underwritings, manipulative trading, and fraudulent "boiler room" sales practices. The findings also stated that the firm acted as managing underwriter and placed approximately 74 percent of an IPO with its customers. The firm and Lieberman, through high pressure sales tactics, sold approximately double the number of shares available in the public float, resulting in enormous short positions in the firm's trading account. The firm and Lieberman dominated and controlled aftermarket trading in the securities and established arbitrary and artificially inflated prices. In addition, the firm's short position was covered through purchases of stock from insiders of the company at prices that represented a tremendous discount to the prevailing market price and resulted in approximately \$53,000,000 in illicit profits to the firm, Lieberman, and the firm's brokers. (NASD Case #CMS960174)

Tucker Anthony, Incorporated (CRD #837, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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 immediately display customer limit orders in Nasdaq securities in its public quotation when the orders were at prices that would have improved the firm's bid or offer in the securities or when the orders were priced equal to the firm's bid or offer and the national best bid or offer for the securities and the size of the orders represented more than a de minimus change in relation to the size associated with the firm's bid or offer in the securities. The findings also stated that the firm failed to contemporaneously execute or to 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. In addition, when the firm acted as principal for its own account, it failed to provide written notification disclosing to its customer the correct reported trade price or that it was a

Market Maker in each such security. The firm also failed to provide written notification disclosing to a customer that the transaction executed was at an average price. (NASD Case #CMS990147)

February Actions

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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 the correct price of transactions to the ACT, failed to maintain memoranda of brokerage orders, and failed to reflect the terms and conditions of orders. The findings also stated that the firm and an individual failed to establish, maintain, and enforce written supervisory procedures relating to marking-the-close activity, trade reporting, and books and records. (NASD Case #CMS990159)

Friedman, Billings, Ramsey & Co., Inc. (CRD #25027, Arlington, Virginia) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$15,000, and ordered to pay \$4,625, 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 executed customer orders to buy and sell shares and failed to use reasonable diligence to ascertain the best inter-dealer market so that the resultant price to the customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to show the terms, conditions, and correct time of execution on brokerage order memoranda. In addition, the firm failed to report transactions in NNM securities to ACT, failed to designate transactions as late to ACT, and failed to report the correct execution time to ACT in NNM securities. (NASD Case #CMS990165)

Securities & Investment Planning Company (CRD #36538, Chatham, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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 execute orders presented at its published bid or offer in the amount up to its published quotation size, thereby failing to honor its published quotation. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations concerning the SEC and the NASD firm quote rules. (NASD Case #CMS990161)

March Actions

Keane Securities Co., Inc. (CRD #8452, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and required to revise the firm's written supervisory procedures relating to the SEC and NASD firm quote rules within 60 days of acceptance of this AWC by the NAC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it was presented with orders at its published bid or offer in an amount up to its published quotation size, failed to execute the orders, and therefore failed to honor its published quotation. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning SEC and NASD firm quote rules. (NASD Case #CMS990173)

Leonard Alan Neuhaus (CRD #1871294, Registered Principal, Roslyn Heights, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and required to requalify by exam in all capacities within 90 days of the acceptance of this AWC by the NASD. If Neuhaus fails to requalify within this mandated period, he will be suspended from functioning in that capacity with any member firm until such exam is successfully completed. Without admitting or denying the allegations, Neuhaus consented to the described sanctions and to the entry of findings that he failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to the designation of supervisory personnel, trade reporting, best execution, the Limit Order Protection Interpretation, Order Handling Rules, registration of persons with the NASD, the use of SOES, record-keeping, locked and crossed markets, and anti-competitive practices. (NASD Case #CMS990179)

Schonfeld Securities, L.L.C. (CRD #23304, Jericho, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and required to submit revised written supervisory procedures concerning transaction reporting to the NASD within 60 days of acceptance of this AWC by the NAC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it incorrectly designated as ".SLD" to ACT transactions in NNM and listed securities. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning transaction reporting. (NASD Case #CMS000005)

Standard New York Securities, Inc. (CRD #35560, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and required to submit revised written supervisory procedures concerning transaction reporting to the NASD within 60 days of acceptance of this AWC by the NAC. Without admitting or denying the allegations, the firm con-

sented to the described sanctions and to the entry of findings that it failed to transmit transactions through ACT in NNM, Nasdaq SmallCap, and OTC equity securities in a timely manner, failed to designate such transactions as late to ACT, and failed to include the correct time of execution. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning transaction reporting. (NASD Case #CMS000004)

The Third Market Corporation (CRD #30181, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$19,500, and required to pay \$223.76 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 bought shares of securities for its market-making account while holding unexecuted customer limit orders and failed to display customer limit orders immediately when the orders were at a price that would have improved the firm's bid or offer in each security related to those orders. The findings also stated that the firm failed to report transactions to ACT correctly and to maintain the time of entry of an order on a brokerage order memorandum. In addition, the firm failed to maintain a record showing the time the firm routed limit orders to the New York Stock Exchange for display. The firm also failed to execute a customer limit order when the inside market was better than the customer's limit order price and sold shares of securities to public customers and failed to use reasonable diligence to ascertain the best inter-dealer markets so that the resultant prices were as favorable to the customers as possible under prevailing market conditions. Moreover, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations regarding trade reporting, ACT reporting, limit order protection, registration, books and records, locked and crossed markets, the Order Handling Rules, anti-competitive practices, and best execution. (NASD Case #CMS000006)

Whale Securities Co., L.P. (CRD #13516, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$27,000, and required to revise the firm's written supervisory procedures relating to locked and crossed markets, SOES, registration, limit orders, best execution, and books and records. The revised procedures must be submitted to the NASD within 60 days of acceptance of this AWC by the NAC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display 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 in each security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a de minimus change in relation to the size of the firm's bid or offer in each security. The findings also stated that the firm failed to provide written notification to its customers that it was a Market Maker or, where it acted as principal, that the price on the customer confirmation was an average price and instead disclosed an incorrect reported trade price. The firm also reported transactions incorrectly to ACT and failed to correctly identify aggregated transaction reports in NNM and Nasdaq SmallCap securities. Moreover, the firm failed to maintain or enter information accurately on memoranda of brokerage orders or to maintain a customer transaction confirmation. In addition, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning locked and crossed markets, SOES, registration, limit orders, best execution, and books and records. (NASD Case #CMS990175)

Regulatory & Compliance Alert Information

Regarding Any Items In This Publication

If you have further questions or comments, please contact either the individual listed at the conclusion of an item or Rosa A. Maymi, Editor, *Regulatory & Compliance Alert (RCA)*, 1735 K Street, NW, Washington, DC 20006-1500, (202) 728-8981.

NASD Disciplinary Actions & Histories

If you are a member of the media, please contact NASD Media Relations at (202) 728-8884. To investigate the disciplinary history of any NASD-licensed representative or principal, call our toll-free Public Disclosure Hot Line at (800) 289-9999.

Subscriptions Questions, Problems, Or Changes

MEMBER FIRMS

The primary method of publishing the *RCA* is via the Internet on the NASDR Web Site, www.nasd.com. NASD member firms are eligible for one subscription to a hard-copy version of *RCA* at cost, \$15 per year. Contact NASD MediaSource for more information at (301) 590-6142.

NON-MEMBER SUBSCRIBERS

To subscribe to *RCA*, please send a check or money order, payable to the National Association of Securities Dealers, Inc., to NASD MediaSource, P.O. Box 9403, Gaithersburg, MD 20898-9403 or, for credit card orders, call NASD MediaSource at (301) 590-6142. The cost is \$25 per issue or \$80 per year. *RCA* subscribers with subscription problems or changes may contact NASD Administrative Services at (202) 728-8302.

OTHER RECIPIENTS

Other recipients of *RCA* who wish to make an address change can send in writing your correct address with a label (or copy of a label) from our mailing that shows the current name, address, and label code. Send your request to: NASD, Administrative Services, 1735 K Street, NW, Washington, DC 20006-1500.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. NASD and NASD MediaSource are registered service marks of the National Association of Securities Dealers, Inc. NASD Regulation and OATS are service marks of NASD Regulation, Inc. CRD is a registered service mark of NASD Regulation, Inc. and the North American Securities Administrators Association, Inc. (NASAA). The Nasdaq Stock Market, NAqcess, Nasdaq, Nasdaq National Market, OTC Bulletin Board, and Nasdaq Workstation are registered service marks of The Nasdaq Stock Market, Inc. PORTAL, SOES, FIPS, SelectNet, The Nasdaq SmallCap Market, and Nasdaq Workstation II are service marks of The Nasdaq Stock Market, Inc.

No portion of this publication may be photocopied or duplicated in any form or by any means except as described below without prior written consent from the NASD. Members of the NASD are authorized to photocopy or otherwise duplicate any part of this publication without charge only for internal use by the member and its associated persons. Nonmembers of the NASD may obtain permission to photocopy for internal use only through the Copyright Clearance Center (CCC) for a \$5-per-page fee to be paid directly to CCC, 222 Rosewood Drive, Danvers, MA 01923.