

Notices to Members

November 1998

Notices

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NASD Notice to Members 98-90

New Arbitrator List Selection Rules And Monetary Thresholds For Simplified And Single Arbitration Cases Take Effect

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

On October 14, 1998, the Securities and Exchange Commission (SEC) approved rule changes proposed by the National Association of Securities Dealers, Inc. (NASD[®]) relating to the selection of arbitrators.¹ The arbitrator list selection rules and related amendments to the Code of Arbitration Procedure will be effective on November 17, 1998. The list selection rules will allow the parties to an arbitration to have a significant role in selecting the arbitrators that will hear their dispute.

The NASD is also declaring effective previously approved increases in the ceilings for simplified arbitration cases and for cases eligible for resolution by a single arbitrator from \$10,000 to \$25,000, and from \$30,000 to \$50,000, respectively.²

Questions concerning this *Notice* should be directed to Sharon Zackula, Assistant General Counsel, NASD Regulation, Inc. (NASD RegulationSM), (202) 728-8985 (customer disputes) or Jean I. Feeney, Assistant General Counsel, NASD Regulation, (202) 728-6959 (intra-industry disputes).

New Arbitration Procedures For The Selection Of Arbitrators In Customer Disputes And Intra-Industry Disputes

The list selection rules will allow the parties to an arbitration to have a significant role in selecting the arbitrators who will hear their dispute. The new procedures will incorporate newly developed software, the Neutral List Selection System (NLSS), which can generate lists of arbitrators in a neutral fashion. Using the lists, the parties may state preferences among the listed arbitrators by numerically ranking them. After parties rank the listed arbitrators, NLSS will consolidate the parties' rankings of the listed arbitrators, and the arbitration panel will be selected in

accordance with the rankings. NLSS will also perform many other administrative functions in the arbitrator selection process.

The text of these rules and other related amendments that go into effect on November 17, 1998, is set forth at the end of this *Notice*.

New Thresholds For Simplified Arbitration

The new thresholds for simplified and single arbitration cases will also take effect simultaneously with the effectiveness of the list selection procedures announced in this *Notice*. Cases involving claims of no more than \$25,000 (up from \$10,000) will be eligible for resolution under the procedures specified in Rules 10203 and 10302, which provide for the resolution of such cases on the paper record (or after a hearing if demanded by the claimant) by a single arbitrator. Cases involving claims of no more than \$50,000 (up from \$30,000) may be resolved after a hearing by a single arbitrator. In both instances, the single arbitrator will be selected in accordance with the new list selection rules.

Effectiveness Of The New Procedures

The NASD intends to make the rule change effective on November 17, 1998.

A case will be subject to revised Rules 10202, 10203, and 10308 if, as of November 17, 1998, NASD Regulation has not mailed or otherwise transmitted a letter or other written communication to the parties notifying the parties of the names of the arbitrators appointed to hear the arbitration. In addition, as of November 17, 1998, the newly adopted changes to Rule 10104, Rules 10309 through 10313, and Rule 10315 will apply to this group of cases.

A case will be subject to current Rules 10202, 10203, and 10308 for the purpose of selecting an arbitration panel, if, before the effective date of the rule change, NASD Regulation identifies the arbitrator (in a case having one arbitrator) or the three-arbitrator panel (in a case having three arbitrators) and mails or otherwise transmits a letter or other written communication to the parties notifying the parties of the names of the arbitrators. However, as of November 17, 1998, such cases also will be subject to all provisions of amended Rule 10308, except those relating to the initial process of selecting an arbitration panel. In addition, the newly adopted changes to Rule 10104, Rules 10309 through 10313, and Rule 10315 will apply to this group of cases. Below are four examples of how the old rules and the amended rules intersect and will be applied to the group of cases for which a panel is appointed initially under current Rule 10308.

- **Peremptory Challenge** - In such cases, a party retains the right provided under current Rule 10311 to one peremptory challenge of an appointed arbitrator, because the party has not been able to exercise the parallel right of striking an undesirable arbitrator in the pre-appointment phase that is provided under amended Rule 10308. The party choosing to exercise this right should follow the procedure set forth in Rule 10311.

- **Chairperson** - The provisions of amended Rule 10308 will apply to such cases if the Director of Arbitration has not already selected the chairperson. Amended Rule 10308 (c)(5) grants the parties the right to select a chairperson. If the parties fail to act within the specified time, the Director must select a chairperson. The Director's authority to act is specifically stated in amended Rule 10308(c)(5) and generally stated in paragraph (e). Under paragraph

(c)(5), the Director must appoint a chairperson subject to three limitations, one of which is how the parties ranked the arbitrators. Since the Director will not have party rankings of arbitrators, the Director will appoint a chairperson subject to the two other limitations set forth in amended Rule 10308(c)(5), pursuant to the general authority in paragraph (e).

- **Right to Receive Arbitrator Information and Request Additional Information** - A party will retain the right under current Rule 10310 to receive employment information and information disclosed pursuant to Rule 10312 about the arbitrators that have been appointed for his or her case and to make additional inquiries about an arbitrator. A party's right to receive such information is included in amended Rule 10308; the NASD is simply clarifying that such information about arbitrators shall be provided to a party either pursuant to current Rule 10310 in cases where the arbitrators are appointed under current Rule 10308 or pursuant to amended Rule 10308(b)(6) in cases where arbitrators are appointed under amended Rule 10308.

- **Right to Challenge a Replacement Arbitrator** - A party will not retain the right in Rule 10310 to challenge a replacement arbitrator for cases where the arbitrators are appointed under current Rule 10308. Instead, a party may exercise the right to object to a replacement arbitrator under amended Rule 10308(d).

NASD Regulation believes that this is the most appropriate approach to provide the benefits of list selection to the greatest number of parties as quickly as possible. List selection provides the parties additional input into the arbitration proceeding, and applying the new process for the appointment of arbitrators to certain cases filed shortly before the date of effectiveness will provide the benefits

to such parties. NASD Regulation does not believe that any party will suffer an unfair surprise if the list selection rule and the other rule changes are applied to an arbitration case filed prior to November 17, 1998. Finally, in order to implement the proposed rule change, NASD Regulation must make a number of operational changes. The administrative burdens of fully implementing the list selection process nationwide are many, and NASD Regulation believes that the benefits of implementing the new procedures rapidly and system-wide outweigh the benefits, if any, obtainable from continued use of the old system.

Text Of Amendments

(Note: New text is underlined; deletions are bracketed.)

Rule 10104. Composition and Appointment of Panels

Except as otherwise specifically provided in Rule 10308, ~~t~~^[T]he Director [of Arbitration] shall compose and appoint panels of arbitrators from the existing pool of arbitrators of the Association to conduct the arbitration of any matter which shall be eligible for submission under this Code. [The Director of Arbitration may request that the Executive Committee of the National Arbitration Committee undertake the composition and appointment of a panel or undertake consultation with the Executive Committee regarding the composition and appointment of a panel in any circumstance where he determines such action to be appropriate.]

Rule 10202. Composition of Panels

(a) In disputes subject to arbitration that arise out of the employment or termination of employment of an associated person, and that relate exclusively to disputes involving

employment contracts, promissory notes or receipt of commissions, the panel of arbitrators shall be appointed as provided by paragraph (b)(1) or (2) or Rule 10203, whichever is applicable. In all other disputes arising out of the employment or termination of employment of an associated person, the panel of arbitrators shall be appointed as provided by Rule 10302 or Rule 10308, whichever is applicable.

(b) [(1) Except as otherwise provided in paragraph (a) or Rule 10203, in all arbitration matters between or among members and/or persons associated with members, and where the amount in controversy does not exceed \$30,000, the Director of Arbitration shall appoint a single arbitrator to decide the matter in controversy. The arbitrator chosen shall be from the securities industry. Upon the request of a party in its initial filing or the arbitrator, the Director of Arbitration shall appoint a panel of three (3) arbitrators, all of whom shall be from the securities industry.]

(1) Composition of Arbitration Panel

(A) Claims of \$50,000 or Less

If the amount of a claim is \$50,000 or less, the Director shall appoint an arbitration panel composed of one non-public arbitrator, unless the parties agree to the appointment of a public arbitrator.

(i) If the amount of a claim is \$25,000 or less and an arbitrator appointed to the case requests that a panel of three arbitrators be appointed, the Director shall appoint an arbitration panel composed of three non-public arbitrators, unless the parties agree to a different panel composition.

(ii) If the amount of a claim is greater than \$25,000 and not more than \$50,000 and a party in its initial filing or an arbitrator appointed to the case

requests that a panel of three arbitrators be appointed, the Director shall appoint an arbitration panel composed of three non-public arbitrators, unless the parties agree to a different panel composition.

(B) Claims of More than \$50,000

If the amount of a claim is more than \$50,000, the Director shall appoint an arbitration panel composed of three non-public arbitrators, unless the parties agree to a different panel composition.

(2) Except as otherwise provided in paragraph (a), in all arbitration matters between or among members and/or persons associated with members and where the amount in controversy exceeds [~~\$30,000~~] \$50,000, exclusive of attendant costs and interest, a panel shall consist of three arbitrators, all of whom shall be [from the securities industry] non-public arbitrators.

(c) In proceedings relating to injunctions under Rule 10335, the provisions of Rule 10335 shall supersede the provisions of this Rule.

(d) Except as otherwise provided in this Rule or Rule 10203, the provisions of Rule 10308 shall apply to intra-industry disputes.

Rule 10203. Simplified Industry Arbitration

(a) Any dispute, claim, or controversy arising between or among members or associated persons submitted to arbitration under this Code involving a dollar amount not exceeding [~~\$10,000~~] \$25,000, exclusive of attendant costs and interest, shall be resolved by an arbitration panel constituted pursuant to the provisions of subparagraph (1) hereof solely upon the pleadings and documentary evidence filed by the parties, unless one of the parties to the proceeding files

with the Office of the Director of Arbitration within ten (10) business days following the filing of the last pleading a request for a hearing of the matter.

(1) In any proceeding pursuant to this Rule, an arbitration panel shall consist of [no fewer than one (1) but no more than three (3) arbitrators, all of whom shall be from the securities industry] a single non-public arbitrator.

(2) No Change

(b) No Change

Rule 10302. Simplified Arbitration

(a) Any dispute, claim, or controversy arising between a public customer(s) and an associated person or a member subject to arbitration under this Code involving a dollar amount not exceeding [~~\$10,000~~] \$25,000, exclusive of attendant costs and interest, shall be arbitrated as hereinafter provided.

(b) No Change

(c) The Claimant shall pay a non-refundable filing fee and shall remit a hearing session deposit as specified in Rule 10332 of this Code upon the filing of the Submission Agreement. The final disposition of the fee or deposit shall be determined by the arbitrator.

(d) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. Within twenty (20) calendar days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be

filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s) along with any deposit required under the schedule of fees for customer disputes. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third-Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a Third-Party Claim, the Respondent(s) shall serve the Third-Party Respondent with an executed Submission Agreement, a copy of the Respondent's Answer containing the Third-Party Claim, and a copy of the original Claim filed by the Claimant. The Third-Party Respondent shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding [\$10,000] \$25,000 exclusive of attendant costs and interest, the arbitrator may refer the Claim, Counterclaim and/or Third-Party Claim, if any, to a panel of three (3) [or five (5)] arbitrators in accordance with Rule 10308 or, he may dismiss the Counterclaim and/or Third-Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed the total amount specified in Rule 10332.

(e) No Change

(f) The dispute, claim or controversy shall be submitted to a single public arbitrator knowledgeable in the securities industry [selected] appointed by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a

hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(g) No Change

(h)(1) The arbitrator shall be authorized to require the submission of further documentary evidence as he, in his sole discretion, deems advisable.

(2) If a hearing is demanded or consented to in accordance with paragraph (f), the General Provisions Governing Pre-Hearing Proceedings under Rule 10321 shall apply.

(3) If no hearing is demanded or consented to, all requests for document production shall be submitted in writing to the Director of Arbitration within ten (10) business days of notification of the identity of the arbitrator selected to decide the case. The requesting party shall serve simultaneously its request for document production on all parties. Any response or objections to the requested document production shall be served on all parties and filed with the Director of Arbitration within five (5) business days of receipt of the requests for production. The [selected] appointed arbitrator shall resolve all requests under this Rule on the papers submitted.

(i) - (l) No Change

Rule 10308. [Designation of Number of Arbitrators] Selection of Arbitrators

This Rule specifies how parties may select or reject arbitrators, and who can be a public arbitrator.

[Rule text replaced in its entirety.]

(a) Definitions

(1) "day"

For purposes of this Rule, the term "day" means calendar day.

(2) "claimant"

For purposes of this Rule, the term "claimant" means one or more persons who file a single claim.

(3) "Neutral List Selection System"

The term "Neutral List Selection System" means the software that maintains the roster of arbitrators and performs various functions relating to the selection of arbitrators.

(4) "non-public arbitrator"

The term "non-public arbitrator" means a person who is otherwise qualified to serve as an arbitrator and:

(A) is, or within the past three years, was:

(i) associated with a broker or a dealer (including a government securities broker or dealer or a municipal securities dealer);

(ii) registered under the Commodity Exchange Act;

(iii) a member of a commodities exchange or a registered futures association; or

(iv) associated with a person or firm registered under the Commodity Exchange Act;

(B) is retired from engaging in any of the business activities listed in subparagraph (4)(A);

(C) is an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional work, in the last two years, to clients who are engaged in any of the business activities listed in subparagraph (4)(A); or

(D) is an employee of a bank or other financial institution and effects transactions in securities, including government or municipal securities, and commodities futures or options or supervises or monitors the compliance with the securities and commodities laws of employees who engage in such activities.

(5) "public arbitrator"

(A) The term "public arbitrator" means a person who is otherwise qualified to serve as an arbitrator and is not:

(i) engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D); or

(ii) the spouse or an immediate family member of a person who is engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D).

(B) For the purpose of this Rule, the term "immediate family member" means:

(i) a family member who shares a home with a person engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D);

(ii) a person who receives financial support of more than 50 percent of his or her annual income from a person engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D); or

(iii) a person who is claimed as a dependent for federal income tax purposes by a person engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D).

(6) "respondent"

For purposes of this Rule, the term "respondent" means one or more persons who individually or jointly file an answer to a complaint.

(7) "send"

For purposes of this Rule, the term "send" means to send by first class mail, facsimile, or any other method available and convenient to the parties and the Director.

(b) Composition of Arbitration Panel; Preparation of Lists for Mailing to Parties

(1) Composition of Arbitration Panel

(A) Claims of \$50,000 or Less

If the amount of a claim is \$50,000 or less, the Director shall appoint an arbitration panel composed of one public arbitrator, unless the parties agree to the appointment of a non-public arbitrator.

(i) If the amount of a claim is \$25,000 or less and an arbitrator appointed to the case requests that a panel of three arbitrators be appointed, the Director shall appoint an arbitration panel composed of one non-public arbitrator and two public arbitrators, unless the parties agree to a different panel composition.

(ii) If the amount of a claim is greater than \$25,000 and not more than \$50,000 and a party in its initial filing or an arbitrator appointed to the case requests that a panel of three arbitrators be appointed, the Director shall appoint an arbitration panel composed of one non-public arbitrator and two public arbitrators, unless the parties agree to a different panel composition.

(B) Claims of More Than \$50,000

If the amount of a claim is more than \$50,000, the Director shall appoint an arbitration panel composed of one non-public arbitrator and two public arbitrators, unless the parties agree to a different panel composition.

(2) One List for Panel of One Arbitrator

If one arbitrator will serve as the arbitration panel, the Director shall send to the parties one list of public arbitrators, unless the parties agree otherwise.

(3) Two Lists for Panel of Three Arbitrators

If three arbitrators will serve as the arbitration panel, the Director shall send two lists to the parties, one with the names of public arbitrators and one with the names of non-public arbitrators. The lists shall contain numbers of public and non-public arbitrators, in a ratio of approximately two to one, respectively, to the extent possible, based on the roster of available arbitrators.

(4) Preparation of Lists

(A) Except as provided in subparagraph (B) below, the Neutral List Selection System shall generate the lists of public and non-public arbitrators on a rotating basis within a designated geographic hearing site and shall exclude arbitrators based upon conflicts of interest identified within the Neutral List Selection System database.

(B) If a party requests that the lists include arbitrators with expertise classified in the Neutral List Selection System, the lists may include some arbitrators having the designated expertise.

(5) Sending of Lists to Parties

The Director shall send the lists of arbitrators to all parties at the same time approximately 30 days after the last answer is due.

(6) Information About Arbitrators

The Director shall send to the parties employment history for each listed arbitrator for the past 10 years and

other background information. If a party requests additional information about an arbitrator, the Director shall send such request to the arbitrator, and shall send the arbitrator's response to all parties at the same time. When a party requests additional information, the Director may, but is not required to, toll the time for the parties to return the ranked lists under paragraph (c)(2).

(c) Striking, Ranking, and Appointing Arbitrators on Lists

(1) Striking and Ranking Arbitrators

(A) Striking An Arbitrator

A party may strike one or more of the arbitrators from each list for any reason.

(B) Ranking - Panel of One Arbitrator

Each party shall rank all of the arbitrators remaining on the list by assigning each arbitrator a different, sequential, numerical ranking, with a "1" rank indicating the party's first choice, a "2" indicating the party's second choice, and so on.

(C) Ranking - Panel of Three Arbitrators

Each party shall rank all of the public arbitrators remaining on the list by assigning each arbitrator a different, sequential, numerical ranking, with a "1" rank indicating the party's first choice, a "2" indicating the party's second choice, and so on. Each party separately shall rank all of the non-public arbitrators remaining on the list, using the same procedure.

(2) Period for Ranking Arbitrators; Failure to Timely Strike and Rank

A party must return to the Director the list or lists with the rankings not later than 20 days after the Director sent the lists to the parties, unless

the Director has extended the period. If a party does not timely return the list or lists, the Director shall treat the party as having retained all the arbitrators on the list or lists and as having no preferences.

(3) Process of Consolidating Parties' Rankings

The Director shall prepare one or two consolidated lists of arbitrators, as appropriate under paragraph (b)(2) or (b)(3), based upon the parties' numerical rankings. The arbitrators shall be ranked by adding the rankings of all claimants together and all respondents together, including third-party respondents, to produce separate consolidated rankings of the claimants and the respondents. The Director shall then rank the arbitrators by adding the consolidated rankings of the claimants, the respondents, including third-party respondents, and any other party together, to produce a single consolidated ranking number, excluding arbitrators who were stricken by any party.

(4) Appointment of Arbitrators

(A) Appointment of Listed Arbitrators

The Director shall appoint arbitrators to serve on the arbitration panel based on the order of rankings on the consolidated list or lists, subject to availability and disqualification.

(B) Discretion to Appoint Arbitrators Not on List

If the number of arbitrators available to serve from the consolidated list is not sufficient to fill a panel, the Director shall appoint one or more Arbitrators to complete the arbitration panel. Unless the parties agree otherwise, the Director may not appoint a non-public arbitrator under paragraphs (a)(4)(B) or (a)(4)(C). The Director shall provide the parties information

about the arbitrator as provided in paragraph (b)(6), and the parties shall have the right to object to the arbitrator as provided in paragraph (d)(1).

(5) Selecting a Chairperson for the Panel

The parties shall have 15 days from the date the Director sends notice of the names of the arbitrators to select a chairperson. If the parties cannot agree, the Director shall appoint a chairperson from the panel as follows:

(A) The Director shall appoint as the chairperson the public arbitrator who is the most highly ranked by the parties as long as the person is not an attorney, accountant, or other professional who has devoted 50% or more of his or her professional or business activities, within the last two years, to representing or advising public customers in matters relating to disputed securities or commodities transactions or similar matters.

(B) If the most highly ranked public arbitrator is subject to the exclusion set forth in subparagraph (A), the Director shall appoint as the chairperson the other public arbitrator, as long as the person also is not subject to the exclusion set forth in subparagraph (A).

(C) If both public arbitrators are subject to the exclusion set forth in subparagraph (A), the Director shall appoint as the chairperson the public arbitrator who is the most highly ranked by the parties.

(6) Additional Parties

If a party is added to an arbitration proceeding before the Director has consolidated the other parties' rankings, the Director shall send to that party the list or lists of arbitrators and permit the party to strike and rank the arbitrators. The party must return to

the Director the list or lists with numerical rankings not later than 20 days after the Director sent the lists to the party. The Director shall then consolidate the rankings as specified in this paragraph (c).

(d) Disqualification and Removal of Arbitrator Due to Conflict of Interest or Bias

(1) Disqualification By Director

After the appointment of an arbitrator and prior to the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, if the Director or a party objects to the continued service of the arbitrator, the Director shall determine if the arbitrator should be disqualified. If the Director sends a notice to the parties that the arbitrator shall be disqualified, the arbitrator will be disqualified unless the parties unanimously agree otherwise in writing and notify the Director not later than 15 days after the Director sent the notice.

(2) Authority of Director to Disqualify Ceases

After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director's authority to remove an arbitrator from an arbitration panel ceases.

(3) Vacancies Created by Disqualification or Resignation

Prior to the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, if an arbitrator appointed to an arbitration panel is disqualified or is otherwise unable or unwilling to serve, the Director shall appoint from the consolidated list of arbitrators the arbitrator who is the most highly ranked available arbitrator of the proper classification remaining on the list. If

there are no available arbitrators of the proper classification on the consolidated list, the Director shall appoint an arbitrator of the proper classification subject to the limitation set forth in paragraph (c)(4)(B). The Director shall provide the parties information about the arbitrator as provided in paragraph (b)(6), and the parties shall have the right to object to the arbitrator as provided in paragraph (d)(1).

(e) Discretionary Authority

The Director may exercise discretionary authority and make any decision that is consistent with the purposes of this Rule and the Rule 10000 Series to facilitate the appointment of arbitration panels and the resolution of arbitration disputes.

Rule 10309. Composition of Panels

Except as otherwise specifically provided in Rule 10308, t[T]he individuals who shall serve on a particular arbitration panel shall be determined by the Director [of Arbitration]. Except as otherwise specifically provided in Rule 10308, t[T]he Director [of Arbitration] may name the chairman of the panel.

Rule 10310. Notice of Selection of Arbitrators

(a) The Director shall inform the parties of the arbitrators' names and employment histories for the past 10 years, as well as information disclosed pursuant to Rule 10312, at least 15 business days prior to the date fixed for the first hearing session. A party may make further inquiry of the Director [of Arbitration] concerning an arbitrator's background. In the event that, prior to the first hearing session, any arbitrator should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, the Director

shall appoint a replacement arbitrator to fill the vacancy on the panel. The Director shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past 10 years, as well as information disclosed pursuant to Rule 10312. A party may make further inquiry of the Director [of Arbitration] concerning the replacement arbitrator's background and within the time remaining prior to the first hearing session or the 10 day period provided under Rule 10311, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Rule 10311.

(b) This Rule shall not apply to arbitration proceedings that are subject to Rule 10308.

Rule 10311. Peremptory Challenge

(a) In an[y] arbitration proceeding, each party shall have the right to one [(1)] peremptory challenge. In arbitrations where there are multiple Claimants, Respondents, and/or Third-Party Respondents, the Claimants shall have one [(1)] peremptory challenge, the Respondents shall have one [(1)] peremptory challenge, and the Third-Party Respondents shall have one [(1)] peremptory challenge. The Director [of Arbitration] may in the interests of justice award additional peremptory challenges to any party to an arbitration proceeding. Unless extended by the Director [of Arbitration], a party wishing to exercise a peremptory challenge must do so by notifying the Director [of Arbitration] in writing within 10 business days of notification of the identity of the person(s) named under Rule 10310 or Rule 10321(d) or (e), whichever comes first. There shall be unlimited challenges for cause.

(b) This Rule shall not apply to arbitration proceedings that are subject to Rule 10308.

Rule 10312. Disclosures Required of Arbitrators and Director's Authority To Disqualify

(a) - (c) No Change

(d) Prior to the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, the Director may remove an arbitrator based on information disclosed pursuant to this Rule.

([d]e) Prior to the commencement of the [first hearing session,] earlier of (1) the first pre-hearing conference or (2) the first hearing, [the Director of Arbitration may remove an arbitrator based on information disclosed pursuant to this Rule.] t[T]he Director [of Arbitration] shall [also] inform the parties to an arbitration proceeding of any information disclosed to the Director under this Rule unless either the arbitrator who disclosed the information withdraws voluntarily as soon as the arbitrator learns of any interest or relationship described in paragraph (a) that might preclude the arbitrator from rendering an objective and impartial determination in the proceeding, or the Director removes the arbitrator [pursuant to this Rule if the arbitrator is not removed].

(f) After the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, the Director's authority to remove an arbitrator from an arbitration panel ceases. During this period, the Director shall inform the parties of any information disclosed by an arbitrator under this Rule.

Rule 10313. Disqualification or Other Disability of Arbitrators

In the event that any arbitrator, after the commencement of the earlier of (a) the first pre-hearing conference or (b) the first hearing but prior to the rendition of the award, should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, the remaining arbitrator(s) shall continue with the hearing and determination of the controversy, unless such continuation is objected to by any party within 5 days of notification of the vacancy on the panel. Upon objection, the Director [of Arbitration] shall appoint a replacement arbitrator to fill the vacancy and the hearing shall continue. The Director [of Arbitration] shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past 10 years, as well as information disclosed pursuant to Rule 10312. A party may make further inquiry of the Director [of Arbitration] concerning the replacement arbitrator's background. If the arbitration proceeding is subject to Rule 10308, the party may exercise his or her right to challenge the replacement arbitrator within the time remaining prior to the next scheduled hearing session by notifying the Director in writing of the name of the arbitrator challenged and the basis for such challenge. If the arbitration proceeding is not subject to Rule 10308, [and] within the time remaining prior to the next scheduled hearing session or the 5 day period provided under Rule 10311, whichever is shorter, a party may exercise the party's [its] right to challenge the replacement arbitrator as provided in Rule 10311.

Rule 10315. Designation of Time and Place of First Meeting [Hearing]

The Director shall determine t[T]he time and place of the first meeting of the arbitration panel and the parties, whether the first meeting is a pre-hearing conference or a hearing. [initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators.] and shall give n[N]otice of the time and place [for the initial hearing shall be given] at least [eight (8)] 15 business days prior to the date fixed for the first meeting [hearing] by personal service, registered or certified mail to each of the parties unless the parties shall, by their mutual consent, waive the notice provisions under this Rule. The arbitrators shall determine the time and place for all subsequent meetings, whether the meetings are pre-hearing conferences, hearings, or any other type of meetings, and shall give n[N]otice [for each hearing thereafter shall be given] as the arbitrators may determine. Attendance at a meeting [hearing] waives notice thereof.

Endnotes

¹Securities Exchange Act Rel. No. 40555 (October 14, 1998) (File No. SR-NASD-98-48) and Securities Exchange Act Rel. No. 40556 (October 14, 1998) (File No. SR-NASD-98-64).

²Securities Exchange Act Rel. No. 38635 (May 14, 1997) (File No. SR-NASD-97-22).

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NASD Notice to Members 98-91

NASD Alerts Members To Their Obligations Concerning Cold Calling And Advertising To Persons In The United Kingdom

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

The Financial Services Authority (FSA) in the United Kingdom (U.K.) has detected an increase in the frequency with which National Association of Securities Dealers, Inc. (NASD[®]) member firms have been soliciting U.K. citizens. In response to this activity, the FSA has asked NASD Regulation, Inc. (NASD RegulationSM) to alert its members to the standards governing the solicitation of U.K. citizens generally and implications of cold calling and advertising to persons in the U.K. in particular. This *Notice* briefly summarizes the legal and regulatory framework in the U.K. regarding cold calling and advertising. NASD Regulation reminds members proposing to cold call or advertise into the U.K., or any foreign country, to ensure that any such activities comply with all applicable laws.

Questions concerning this *Notice* should be directed to Gary L. Goldsholle, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8104, or The Authorization Enquiries Department, Financial Services Authority, at (011) 44-171-676-4704.

Conduct Of Investment Business In The U.K.

Any person who carries on investment business in the U.K. must be authorized or exempt under the Financial Services Act of 1986 (the Act). Investment business includes dealing and arranging deals in investments and giving investment advice. "Investments" include stocks, shares, and derivatives. Persons who operate from outside the U.K. are "overseas persons" under the Act and enjoy the benefit of an exclusion from the need for authorization but only if they carry on their business in such a way that they do not breach the provisions of Section 56 (unsolicited or cold calls) and Section 57 (investment advertisements) of the Act.

Unsolicited Or Cold Calls

Section 56 of the Act generally prohibits cold calling by providing that no person shall make an unsolicited call (*i.e.*, any call without an express invitation) in an attempt to make an investment agreement with a person in the U.K. Members should be aware that this general prohibition in the U.K. applies to U.S. member firms and their associated persons notwithstanding the fact that such persons may be permitted to make cold calls under the NASD rules.

The FSA's Common Unsolicited Calls Regulations (CUC Regulations) provide exemptions from the general prohibition against cold calling. Under the CUC Regulations, an "overseas person" may make unsolicited calls only to:

- (1) "existing customers," defined as persons with whom the overseas person has an existing customer relationship that was established while the customer was *resident outside the U.K.*; and
- (2) "non-private customers," or business investors, such as government or public authorities, corporations, or partnerships with substantial assets and trustees of trusts holding substantial assets.

Investment Advertisements

Section 57 of the Act generally prohibits an overseas person, as defined above, from issuing or causing the issue of an investment advertisement in the U.K. unless its contents have been approved by an authorized person under the Act. An investment advertisement includes any advertisement containing information calculated to lead directly or indirectly to a person entering into an investment agreement. Foreign advertisements are treated as issued in the U.K. if they are directed to persons in the U.K. or made available to them other than through a newspaper or other

journal that is published and circulates mainly outside of the U.K.

Consequences Of Breaching U.K. Legislation

Any person who conducts investment business in the U.K. without authorization under the Act, or any person who issues an investment advertisement without approval may

be committing a criminal offense and be liable to prosecution. Also, any agreement made by or through an unauthorized person may be unenforceable against the other party.

The information provided in this *Notice* does not describe in detail the laws applicable to solicitation in the

U.K. NASD Regulation urges members considering soliciting U.K. citizens to review the U.K. laws specifically to ensure that their conduct complies with all applicable laws.

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NASD Notice to Members 98-92

NASD Regulation Articulates Position On The Application Of NASD Rule 2680 To U.S. Broker/Dealers That Intermediate Transactions Pursuant To Exchange Act Rule 15a-6(a)(3)

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

Through this *Notice*, NASD Regulation, Inc. (NASD RegulationSM) is establishing an interpretation that National Association of Securities Dealers, Inc. (NASD[®]) Rule 2860(b)(3) options position limits apply with respect to options transactions that are intermediated by member firms pursuant to Exchange Act Rule 15a-6(a)(3). Members are also reminded of the reporting obligations under Rule 2860(b)(5) with respect to such Rule 15a-6(a)(3) transactions.

Questions concerning this *Notice* may be directed to Gary L. Goldsholle, Assistant General Counsel, NASD Regulation, at (202) 728-8104.

Discussion

NASD Rule 2860(b)(3) imposes a ceiling or position limit on the number of conventional and standardized equity options contracts in each class on the same side of the market (*i.e.*, aggregating long calls and short puts or long puts and short calls) that can be held or written by a member, a person associated with a member, a customer, or a group of customers acting in concert. Specifically, Rule 2860(b)(3) provides that “no member shall effect for any account in which such member has an interest, . . . or for the account of any customer, an opening transaction through . . . the over-the-counter market or on any exchange in a stock option contract of any class of stock options if the member . . . or customer would . . . hold or control or be obligated in respect of an aggregate equity options position in excess of [certain prescribed limits].”

Exchange Act Rule 15a-6(a)(3) permits a foreign broker/dealer, without registering as a broker/dealer in the United States, to induce or attempt to induce the purchase or sale of any security by a U.S.

institutional investor or major U.S. institutional investor if the resulting transactions are effected through a registered broker/dealer as specified in Rule 15a-6(a)(3). Among the requirements of Rule 15a-6(a)(3) are that the U.S. broker/dealer issues all required confirmations and statements to the institutional investors and maintains the required books and records relating to the transaction.

Member firms have expressed uncertainty as to the application of Rule 2860(b)(3) to Rule 15a-6(a)(3) transactions. Some members have taken the position that options transactions that are intermediated by U.S. member firms pursuant to Rule 15a-6(a)(3), but are not carried on their books for capital purposes, are not subject to the limits of Rule 2860(b)(3). Other members have taken the position that Rule 2860(b)(3) would apply to such transactions.

Through this *Notice*, NASD Regulation is issuing an interpretation to establish consistent application of Rule 2860(b)(3). NASD Regulation staff believes that NASD member firms that intermediate transactions under Rule 15a-6(a)(3) are “effecting” such transactions within the meaning of Rule 2860(b)(3) and that position limits should apply. We believe that the use of the term “effect” in this context, given its ordinary meaning, would apply to the functions that U.S. registered broker/dealers are required to perform under Rule 15a-6(a)(3). In this regard, subparagraph (iii)(A) of Rule 15a-6(a)(3) provides that the registered broker/dealer must be responsible for “effecting the transactions conducted under paragraph (a)(3)” We note that this interpretation is consistent with the overall purpose of Rule 2860(b)(3), which is to prevent the establishment of options positions

that can, or may provide incentive to, manipulate or disrupt the underlying market. These concerns exist with respect to options positions that are maintained at both NASD member firms and their foreign affiliates. Further, because the NASD member firm is required to record each options transaction that is effected under Rule 15a-6(a)(3), the member has the practical ability to enforce compliance with limits for positions that are maintained on its books.

NASD Regulation expects that member firms that are parties to

transactions under Rule 15a-6(a)(3) that would cause them to exceed the position limits of Rule 2860(b)(3) should restructure their positions as soon as practicable to meet the applicable limits. In restructuring options positions, members should be mindful of the exercise limits imposed by Rule 2860(b)(4).

Finally, members are reminded of their reporting obligations under Rule 2860(b)(5), which apply to "each account in which the member has an interest . . . and each customer account, which has established an

aggregate position of 200 or more option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security or index . . ." Consistent with the interpretation described above, this requirement applies to intermediated transactions pursuant to 15a-6(a)(3).

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NASD Notice to Members 98-93

NASD Informs Members Of District Committee Members And District Nominating Committee Members

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

Through this *Notice*, the National Association of Securities Dealers, Inc. (NASD®) is informing NASD members of the 1999 District Committee members and the District Nominating Committee members.

Questions concerning this *Notice* may be directed to the District Director noted or to Joan Conley, Corporate Secretary, NASD, at (202) 728-8381.

District Committee Members And District Nominating Committee Members

Members of the 1999 District Committees and District Nominating Committees are as follows:

DISTRICT 1

District Committee

To Serve Until January 2000

Glenn M. Colacurci	Salomon Smith Barney, Inc., San Francisco, CA
Jerry D. Phillips	Sutro & Co., San Francisco, CA
William A. Svoboda	Morgan Stanley Dean Witter, San Francisco, CA

To Serve Until January 2001

Steven R. Aaron	Hambrecht & Quist LLC, San Francisco, CA
Janet W. Campbell	Protected Investors of America, San Francisco, CA
Douglas C. Heske	Piper Jaffray, Inc., San Francisco, CA

To Serve Until January 2002

John H. Chung	Van Kasper & Company, Inc., San Francisco, CA
Steven D. Piper	Volpe Brown Whelan & Company LLC, San Francisco, CA

Nominating Committee

Deborah R. Gatzek	Franklin/Templeton Distributors, San Mateo, CA
John C. Helmer	Caldwell Securities, Danville, CA
Lawrence R. McKulla	Prudential Securities, San Francisco, CA
John J. Sanders	BancBoston Robertson Stephens, Inc., San Francisco, CA
John E. Schmidt	Credit Suisse First Boston, San Francisco, CA

District Director

Elisabeth P. Owens
525 Market Street, Suite 300
San Francisco, CA 94105
(415) 882-1200

DISTRICT 2

District Committee

To Serve Until January 2000

Terry L. Chase	EVEREN Securities, Inc., Pasadena, CA
Rodney D. Hagenbuch	Merrill Lynch, Pierce Fenner & Smith, Inc., Los Angeles, CA
William J. Porter, III	The Seidler Companies, Inc., Los Angeles, CA
Joan B. Seidel	Morton Seidel & Company, Inc., Beverly Hills, CA

To Serve Until January 2001

James B. Guillou, Sr.	Sutro & Co., Incorporated, LaJolla, CA
Andrew E. Haas	Bear Stearns & Co., Inc., Los Angeles, CA
Richard E. Wiseley	CIBC Oppenheimer & Co., Los Angeles, CA
Richard P. Woltman	Spelman & Co., Inc., San Diego, CA

To Serve Until January 2002

Margaret M. Black	Morgan Stanley Dean Witter, Beverly Hills, CA
Diane P. Blakeslee	Blakeslee & Blakeslee, Inc., San Luis Obispo, CA
Jack R. Handy, Jr.	Financial Network Investment Corporation, Torrance, CA
Dean A. Holmes	Gateway Investment Services, Inc., Glendale, CA

Nominating Committee

George H. Casey	Crowell Weedon & Co., Los Angeles, CA
William A. Hawkins	Griffin Financial Services, City of Industry, CA
Carl E. Lindros	Santa Barbara Securities, Inc., Santa Barbara, CA
Fredric M. Roberts	F. M. Roberts & Company, Los Angeles, CA
Robert L. Winston	American Funds Distributors, Inc., Los Angeles, CA

District Director

Lani M. Sen Woltmann
300 South Grand Avenue, Suite 1600
Los Angeles, CA 90071
(213) 627-2122

DISTRICT 3

District Committee

To Serve Until January 2000

Timothy H. Ganahl	Ragen MacKenzie, Inc., Seattle, WA
Thomas A. Petrie	Petrie Parkman & Co., Inc., Denver, CO
Patrick C. Rile	EVEREN Securities, Inc., Phoenix, AZ
Douglas E. Strand	Strand, Atkinson, Williams & York, Inc., Portland, OR

To Serve Until January 2001

Thomas R. Hislop	Peacock, Hislop, Staley & Given, Inc., Phoenix, AZ
Gerald Meyer	D. A. Davidson & Co., Great Falls, MT
John Morton	Morton Clarke Fu & Metcalf, Inc., Seattle, WA
Terry Lee Richards	PaineWebber, Inc., Salt Lake City, UT

To Serve Until January 2002

James Barnyak	Salomon Smith Barney, Inc., Seattle, WA
David Griswold	Frank Russell Securities, Inc., Tacoma, WA
James E. Stark	Charles Schwab & Co., Phoenix, AZ
Thomas Williams	TIAA/CREF, Denver, CO

Nominating Committee

Vincent Asaro	SunAmerica Securities, Inc., Phoenix, AZ
James Kerr	Dain Rauscher Incorporated, Seattle, WA
William Papesh	WM Funds Distributor, Inc., Spokane, WA
Anthony Petrelli	Neidiger Tucker Bruner, Inc., Denver, CO
Richard Royce	Salomon Smith Barney, Inc., Portland, OR

District Director

Frank J. Birgfeld
Republic Plaza Building
370 17th Street, Suite 2900
Denver, CO 80202-5629
(303) 446-3100

James G. Dawson, Associate Director
Two Union Square
601 Union Street, Suite 1616
Seattle, WA 98101-2327
(206) 624-0790

DISTRICT 4

District Committee

To Serve Until January 2000

Colleen Curran	American Express Financial Advisors, Inc., Minneapolis, MN
Arthur J. Kearney	John G. Kinnard & Company Inc., Minneapolis, MN
John R. Kuddes	Merrill Lynch, Pierce, Smith Incorporated, Overland Park, KS
Wayne H. Peterson	Washington Square Securities, Inc., Minneapolis, MN

To Serve Until January 2001

Antonio J. Cecin	Piper Jaffray Inc., Minneapolis, MN
Cheryl Cook-Schneider	Edward Jones, St. Louis, MO
Robert J. Goodmanson	Robert W. Baird & Co., Inc., St. Paul, MN
Brent M. Weisenborn	Security Investment Company of Kansas City, Kansas City, MO

To Serve Until January 2002

Robert M. Chambers	Chambers Martin & Co., Des Moines, IA
John R. Lepley	Princor Financial Services Corp., Des Moines, IA
William M. Lyons	American Century Investment Services, Inc., Kansas City, MO
Nancy E. Varner	Mercantile Investment Services, Inc., St. Louis, MO

Nominating Committee

Patricia S. Bartholomew	Craig-Hallum Capital Group, Inc., Minneapolis, MN
Edward J. Berkson	Locust Street Securities, Inc., Des Moines, IA
Norman Frager	Walnut Street Securities, St. Louis, MO
Albert W. Lauth	First St. Louis Securities, Inc., St. Louis, MO
Todd W. Miller	Miller, Johnson & Kuehn, Inc., Minneapolis, MN

District Director

Jack Rosenfield
120 W. 12th Street, Suite 900
Kansas City, MO 64105
(816) 421-5700

DISTRICT 5

District Committee

To Serve Until January 2000

R. Neal Culver	Culver Financial Management, Inc., Knoxville, TN
J. French Hill	First Commercial Investments, Inc., Little Rock, AR
Walter H. Johnson	Leo Oppenheim & Co., Inc., Oklahoma City, OK

To Serve Until January 2001

Benjamin D. Capshaw, III	Morgan Stanley Dean Witter, New Orleans, LA
James S. Jones	Crews & Associates, Inc., Little Rock, AR
Dene R. Shipp	SunTrust Equitable Securities, Nashville, TN
John C. West	Prudential Securities, Inc., Memphis, TN

To Serve Until January 2002

James D. Hudgins	SouthTrust Securities, Inc., Birmingham, AL
Leroy H. Paris, II	Mississippi Securities Company, Jackson, MS
Duncan F. Williams	Duncan-Williams, Inc., Memphis, TN

Nominating Committee

H. Kenneth Bennett	Stephens, Inc., Little Rock, AR
James C. Bradford, Jr.	J.C. Bradford & Co., Nashville, TN
Bill Carty	Carty & Company, Inc., Memphis, TN
William T. Patterson	Morgan Keegan & Company, Inc., Jackson, MS
Kenneth L. Wagner	J.J.B. Hilliard, W.L. Lyons, Inc., Louisville, KY

District Director

Warren A. Butler, Jr.
1100 Poydras Street
Energy Centre, Suite 850
New Orleans, LA 70163-0802
(504) 522-6527

DISTRICT 6

District Committee

To Serve Until January 2000

William D. Connally	Greenman Parker Connally Greenman, Inc., Ft. Worth, TX
Titus H. Harris	Harris Webb & Garrison, Inc., Houston, TX
Edward M. Milkie	Milkie Ferguson Investments, Inc., Dallas, TX

To Serve Until January 2001

Daniel C. Dooley	May Financial, Inc., Dallas, TX
Ronald J. Gard	Salomon Smith Barney, Inc., Dallas, TX
Jim G. Rhodes	Rhodes Securities, Inc., Ft. Worth, TX

To Serve Until January 2002

Fred McGinnis	PaineWebber, Houston, TX
Sue Peden	Brokers Transaction Services, Inc., Dallas, TX
Joseph Storthz	Transamerica Financial Resources, Houston, TX

Nominating Committee

John W. Ferguson	May Financial Corp., Dallas, TX
Robert Gunn, III	Gunn & Company Incorporated, San Antonio, TX
Bill Madden	Madden Securities Corporation, Dallas, TX
Gary Murray	Murray Traff Securities, Inc., Tyler, TX
George Stark	Burnham Securities, Inc., Houston, TX

District Director

Bernerd Young, Associate Director
12801 N. Central Expressway, Suite 1050
Dallas, TX 75243
(972) 701-8554

DISTRICT 7

District Committee

To Serve Until January 2000

Robert J. Brietz	Marion Bass Securities Corporation, Charlotte, NC
William H. Carter	J.C. Bradford & Co., Raleigh, NC
Dan B. Franks	Scott & Stringfellow, Inc., Richmond, VA
George K. Jennison	Wheat First Union, Richmond, VA
David G. Pittinos	Morgan Stanley Dean Witter, Tallahassee, FL
R. Charles Shufeldt	SunTrust Equitable Securities Corporation, Atlanta, GA

To Serve Until January 2001

Mary Jae Abbitt	Anderson & Strudwick, Incorporated, Richmond, VA
Robert M. Balentine	Balentine & Company, Atlanta, GA
James J. Buddle	Capital Brokerage Corporation, Richmond, VA
M. Anthony Greene	Investment Management & Research, Inc., Atlanta, GA
J. Lee Keiger III	Davenport & Company LLC, Richmond, VA
Raymond W. Snow	BT Alex. Brown Incorporated, Palm Beach, FL

To Serve Until January 2002

Perrin Q. Dargan, Jr.	A.G. Edwards & Sons, Inc., Pawleys Island, SC
James W. Hamilton, Jr.	Prudential Securities Incorporated, Atlanta, GA
Edward R. Hipp, III	Centura Securities, Inc., Rocky Mount, NC
Roark A. Young	Young, Stovall and Company, Miami, FL

Nominating Committee

John L. Dixom	Mutual Service Corporation, West Palm Beach, FL
Franklin C. Golden	James M. Myers and Co., Charlotte, NC
W. Robb Hough, Jr.	William R. Hough & Co., St. Petersburg, FL
Stuart J. Knobel	Edgar M. Norris & Co., Inc., Anderson, SC
Richard V. McGalliard	Interstate/Johnson Lane Corporation, Atlanta, GA

District Director

Marilyn B. Davis
One Securities Centre, Suite 500
3490 Piedmont Road, NE
Atlanta, GA 30305
(404) 239-6100

DISTRICT 8

District Committee

To Serve Until January 2000

James A. Bowen	Nike Securities, Inc., Lisle, IL
William L. Faulkner	Continental Capital Securities, Inc., Sylvania, OH
Peter C. McCabe, Jr.	Securities Corporation of Iowa, Chicago, IL
Anthony M. Sanfilippo	Trimark Securities, L.P., Chicago, IL
John L. Schlifer	McDonald Investments, Inc., Cleveland, OH

To Serve Until January 2001

William C. Alsover	Centennial Securities Company, Inc., Grand Rapids, MI
Wallen L. Crane	Salomon Smith Barney, Inc., Farmington Hills, MI
Kenneth R. Ehinger	Lincoln Financial Advisors Corp., Fort Wayne, IN
Alan H. Newman	J.J.B. Hilliard, W.L. Lyons, Inc., Evansville, IN
Bruce J. Young	Mesirow Financial, Inc., Chicago, IL

To Serve Until January 2002

R. Jack Conley	VESTAX Securities Corporation, Hudson, OH
Mary D. Esser	Cressman Esser Securities, Inc., Naperville, IL
Glen Hackmann	Robert W. Baird & Co., Inc., Milwaukee, WI
Robert A. Perrier	Butler, Wick & Co., Inc., Cleveland, OH
Kathleen A. Wieland	William Blair & Company, L.L.C., Chicago, IL

Nominating Committee

Kathy J. Birk	Morgan Stanley Dean Witter, Carmel, IN
Lewis H. Echlin	Roney & Co., L.L.C., Detroit, MI
Paul Murin	David A. Noyes & Co., Chicago, IL
Earl Clifford Oberlin, III	MFI Investments Corp., Bryan, OH
William H. Richardson	Trubee, Collins & Co., Inc., Buffalo, NY

District Director

Carlotta A. Romano
10 South LaSalle, 20th Floor
Chicago, IL 60603-1002
(312) 899-4400

William H. Jackson, Jr.
Renaissance on Playhouse Square
1350 Euclid Avenue, Suite 650
Cleveland, OH 44115
(216) 694-4545

DISTRICT 9

District Committee

To Serve Until January 2000

Irving A. Faigen	Prudential Securities Incorporated, Pittsburgh, PA
Allen S. Jacobson	Gibraltar Securities Co., Florham Park, NJ
James Malespina	Herzog, Heine, Geduld, Inc., Jersey City, NJ
William F. Rienhoff IV	BT Alex. Brown Incorporated, Baltimore, MD

To Serve Until January 2001

Victor M. Frye	The Advisors Group, Inc., Bethesda, MD
Phillip C. Graham	Legg Mason Wood Walker, Incorporated, Philadelphia, PA
Jerome J. Murphy	Janney Montgomery Scott Inc., Philadelphia, PA

To Serve Until January 2002

A. Louis Denton	Philadelphia Corporation for Investment Services, Philadelphia, PA
Thomas W. Neumann	Sherwood Securities Corp., Jersey City, NJ
Joseph S. Rizzello	Vanguard Marketing Corporation, Valley Forge, PA
Gregory R. Zappala	RRZ Public Markets, Inc., Cranberry Township, PA

Nominating Committee

Mark W. Cresap	Cresap, Inc., Radnor, PA
John J. Gray	Janney Montgomery Scott Inc., Philadelphia, PA
Dennis V. Marino	Sherwood Securities Corp., Jersey City, NJ
Eric H. Pookrum	Innova Securities, Inc., Suitland, MD
Robert A. Woeber	Arthurs, Lestrangle & Company Incorporated, Pittsburgh, PA

District Director

John P. Nocella
11 Penn Center
1835 Market Street, Suite 1900
Philadelphia, PA 19103
(215) 665-1180

DISTRICT 10

District Committee

To Serve Until January 2000

Joan Caridi	Salomon Smith Barney, Inc., New York, NY
Harold G. Ognelodh	M. R. Beal & Company, New York, NY
Brian T. Shea	Pershing, Division of Donaldson, Lufkin & Jenrette Securities Corporation, Jersey City, NJ

To Serve Until January 2001

Herbert Ackerman	Neuberger & Berman, LLC, New York, NY
Arthur S. Ainsberg	Brahman Securities Inc., New York, NY
Williams P. Behrens	Ernst & Co., New York, NY
Laurence H. Bertan	Sanford C. Bernstein & Co., Inc., New York, NY
Mark D. Madoff	Bernard L. Madoff Investment Securities, New York, NY
Stuart L. Sindell	Dillon, Read & Co., Inc., New York, NY

To Serve Until January 2002

John Iachello	Ing Baring Furman Selz, New York, NY
Philip V. Oppenheimer	Oppenheimer & Close Inc., New York, NY
Gary Salamone	Schroder & Co. Inc., New York, NY
Eugene A. Schlanger	Nomura Securities International, Inc., New York, NY
Lawrence F. Sherman	Mony Securities Corp., New York, NY
Tom M. Wirtshafter	Nathan & Lewis Securities Inc., New York, NY

Nominating Committee

Michael F. Dura	Schroder & Co., Inc., New York, NY
Joseph A. Gottlieb	Bear, Stearns & Co. Inc., New York, NY
Joan S. Green	BT Brokerage Corporation, New York, NY
Norman H. Pessin	Neuberger & Berman, LLC, New York, NY
Stuart J. Voisin	Stuart, Coleman & Co., Inc., New York, NY

District Director

Barbara Cody, Deputy Director
Gary Liebowitz, Deputy Director
NASD Financial Center
33 Whitehall Street
New York, NY 10004
(212) 858-4000

DISTRICT 11

District Committee

To Serve Until January 2000

Harry H. Branning	Advest, Inc., Hartford, CT
Stephanie Brown	Linsco/Private Ledger Corp., Boston, MA
David C. Gowell	Gowell Securities Corp., Boston, MA
William N. Shiebler	Putnam Mutual Funds Corp., Boston, MA

To Serve Until January 2001

Michael J. Dell'Olio	Investment Management and Research, Inc., South Portland, ME
Frank V. Knox, Jr.	Fidelity Distributors Corporation, Boston, MA
Laurie Lennox	SunLife of Canada (U.S.) Distributors, Inc., Boston, MA
Kenneth Unger	Boston Capital Services, Inc., Boston, MA

To Serve Until January 2002

Stephen O. Buff	BancBoston Robertson Stephens, Inc., Boston, MA
Gerard A. Rocchi	W.S. Griffith & Co., Inc., Hartford, CT
James P. Rybeck	The RYBECK, Division of Fechter, Detwiler & Co., Inc., Meriden, CT
Dennis R. Surprenant	Cantella & Co., Inc., Boston, MA

Nominating Committee

John A. Goc	Boston Institutional Services, Boston, MA
Grant Kurtz	Advest, Inc., Hartford, CT
Wilson G. Saville	Barrett & Company, Providence, RI
Edward L. Sherr	Carl P. Sherr & Company, Worcester, MA
Mary Toumpas	American Skandia Marketing, Inc., Shelton, CT

District Director

Willis H. Riccio
260 Franklin Street, 16th Floor
Boston, MA 02110
(617) 261-0800

Audio Tape Order Form

NASD Regulation, Inc. • Advertising Regulation Seminar

October 15-16, 1998 • Washington, DC

Please Check Session Numbers

Advertising Regulation Seminar

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| <input type="radio"/> 109801 | General Session | <input type="radio"/> 109806 | Overview of General & Specific Standards |
| <input type="radio"/> 109802 | General Brokerage | <input type="radio"/> 109807 | Advanced Variable Insurance Products |
| <input type="radio"/> 109803 | Filing Requirements & Review Procedures | <input type="radio"/> 109808 | Case Studies |
| <input type="radio"/> 109804 | Fundamentals of Mutual Funds & Variable Insurance Products | <input type="radio"/> 109809 | Advanced Mutual Funds |
| <input type="radio"/> 109805 | Internet & Electronic Communications | <input type="radio"/> 109810 | Hands-On Exercise |
| | | <input type="radio"/> 109811 | Open Forum |

Complete To Order

Post-Conference Prices:

Number of Individual Sessions _____ x \$12.00 = \$ _____
 Complete Set of Conference Recordings _____ x \$118.80 = \$ _____

Sessions Sub-total = \$ _____

Sales Taxes: Maryland shipping addresses only \$ _____ x 5% = \$ _____

Amount of Sales Taxes = \$ _____

Shipping Charges:

\$2.25 for the first session \$ 2.25 _____
 \$1.25 for each additional session (\$6.00 maximum shipping charge) # _____ x \$1.25 = \$ _____
 \$13.50 extra shipping charge for orders outside of the US Postal System = \$ _____

Shipping Sub-total = \$ _____

Grand Total = \$ _____

Your Name _____

Company _____

Street Address _____ MS/FI/Suite/Apt. # _____

City _____ State _____ Zip Code _____

Day Phone _____ Fax _____ E-mail _____

For Mail or Fax Charge Card Orders:

Visa MasterCard Discover AMEX Check (payable to A.V.E.R. Associates)

Cardholder Name _____ Card Number _____

Card Expiration Date _____ Cardholder Signature _____

Mail or Fax completed form and payment to:
 A.V.E.R. Associates, 6974 Ducketts Lane, Elkridge, MD 21075, Phone 410-796-8940, Fax 410-796-8962

NASD Notice to Members 98-94

Christmas Day And New Year's Day: Trade Date-Settlement Date Schedule

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Christmas Day And New Year's Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market® and the securities exchanges will be closed on Friday, December 25, 1998, in observance of Christmas Day, and Friday, January 1, 1999, in observance of New Year's Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Dec. 17	Dec. 22	Dec. 24
18	23	28
21	24	29
22	28	30
23	29	31
24	30	Jan. 4, 1999
25	Markets Closed	—
28	31	5
29	Jan. 4, 1999	6
30	5	7
31	6	8
Jan. 1, 1999	Markets Closed	—
4	7	11

*Pursuant to Sections 220.8(b)(1) and (4) of Regulation T of the Federal Reserve Board, a broker/dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within five business days of the date of purchase or, pursuant to Section 220.8(d)(1), make application to extend the time period specified. The date by which members must take such action is shown in the column titled "Reg. T Date."

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NASD Key Publications Available On The Internet

Starting in January 1999, the NASD Will Distribute *Notices to Members* and the *Regulatory & Compliance Alert* Primarily Via the Internet



Notices to Members
September 1998

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As announced in *Notice to Members 98-77*, complimentary distribution of hard-copy NASD *Notices to Members* and *Regulatory & Compliance Alert* will be discontinued effective January 1, 1999. However, NASD members can still access these publications on the NASD Regulation Web Site (www.nasdr.com). Members that elect not to use the Web Site as the source for these publications have the option of subscribing to hard-copy versions.

For more information on subscribing or to place an order, call NASD MediaSource at (301) 590-6142.



Regulatory & Compliance Alert
A PUBLICATION OF NASD REGULATION, INC. 42,2 JUNE 1998

NASD Surveys Member Firms And Develops Member Regulation Program
Member Survey Results As Of June 30, 1998

The National Association of Securities Dealers, Inc. (NASD) and a consortium of its members made 1997 its annual firm level compliance for the year 1997 program. As of June 30, 1998, 14 member firms had completed the survey. This represents 60.8 percent of the NASD's designated membership. Founding and NASD-Regulation, Inc., will be comparing disciplinary actions against firms that do not report to the survey by June 30, 1998. Additionally, the Securities and Exchange Commission (SEC) has requested a list of all firms that failed to submit a completed survey.

NASD REGULATION
AN NASD COMPANY

To access the NASD *Notices to Members* and *Regulatory & Compliance Alert* Web Pages, go to the NASD Regulation Web Site (www.nasdr.com).

NASD Regulation will alert Executive Representatives via e-mail whenever new *Notices to Members* or *Regulatory & Compliance Alert* issues are posted to the Web Site beginning next year.

www.nasdr.com



NASD
REGULATION

An NASD Company

NASD Notice to Members 98-95

Fixed Income Pricing
System Additions,
Changes, And Deletions
As Of September 23, 1998

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

As of September 23, 1998, the following bonds were added to the Fixed Income Pricing SystemSM (FIPS[®]).

Symbol	Name	Coupon	Maturity
AMZN.GA	Amazon Com Inc.	10.000	05/01/08
ATCV.GA	ATC Group Services Inc.	12.000	01/15/08
AXTO.GB	Abraxas Petro Corp.	11.500	11/01/04
BDGM.GD	Building Materials Corp.	7.750	07/15/05
BUS.GC	Greyhound Lines Inc.	11.500	04/15/07
CBEA.GA	Cobb Theatres LLC/Cobb Fin Corp.	10.625	03/01/03
CEAW.GA	Caesars World Inc.	8.875	08/15/02
DIGO.GB	DiGiorgio Corp.	10.000	06/15/07
DOSE.GA	PharMerica Inc.	8.375	04/01/08
GI.GB	Giant Industries Inc.	9.000	09/01/07
GMRK.GA	Gulfmark Offshore Inc.	8.750	06/01/08
HAY.GD	Hayes Wheels Intl Inc.	9.125	07/15/07
HWG.GB	Hallwood Group Inc.	10.000	07/31/05
ICIX.GE	Intermedia Communications Corp.	8.875	11/01/07
ICIX.GF	Intermedia Comm Inc.	8.600	06/01/08
ICN.GA	ICN Pharmaceuticals Inc.	9.250	08/15/05
IKNF.GA	Int'l Knife & Saw Inc.	11.375	11/15/06
IMTI.GA	Imagyn Medical Tech	12.500	04/01/04
INSL.GA	Insilco Corp.	10.25	08/15/07
ISLP.GA	Isle of Capri/Cap Corp.	13.000	08/31/04
ITTD.GA	ITT Industry Inc.	6.750	11/15/03
ITTO.GA	ITT Corp. (New)	6.250	11/15/00
ITTO.GB	ITT Corp. (New)	6.750	11/15/05
ITTO.GC	ITT Corp. (New)	7.375	11/15/15
ITTO.GD	ITT Corp. (New)	7.750	11/15/25
IV.GD	Mark IV Industries Inc.	7.500	09/01/07
KBLR.GA	Keebler Foods Corp.	10.750	07/01/06
KNTC.GA	Kinetic Concepts Inc.	9.625	11/01/07
KRYS.GA	Krystal Co.	10.250	10/01/07
KSLG.GA	KSL Recreation Group Inc.	10.250	05/01/07
LENF.GB	Lenfest Communications Inc.	10.500	06/15/06
LPMT.GA	Leslie's Poolmart Inc.	10.375	07/15/04
MECU.GA	Mediacom LLC/Cap Corp.	8.500	04/15/08
NBCQ.GA	NBC Acquisition Corp.	10.750	02/15/09
NBKA.GA	Nebraska Book Co.	8.750	02/15/08
NTK.GE	Nortek Inc.	9.125	09/01/07
NWCG.GA	NWCG Holdings Corp.	13.500	06/15/99
OBTI.GA	Orbital Imaging Corp.	11.625	03/01/05
PCKI.GB	PrintPack Inc.	10.625	08/15/06
PGCU.GA	Pegasus Media & Comm Inc.	12.500	07/01/05
PGI.GB	Polymer Group Inc.	8.750	03/01/08
PGTV.GA	Pegasus Communications Corp.	9.625	10/15/05
PKED.GA	Package Ice	9.750	02/01/05
PRGC.GA	Paragon Corp. Holdings	9.625	04/01/08
PRTL.GB	Primus Telecomm Group Inc.	9.875	05/15/08
PSHF.GA	Petro Shopping Ctrs/Fin Corp.	10.500	02/01/07
PSTC.GA	Prestolite Electric Inc.	9.625	02/01/08
PUML.GA	Purina Mills Inc.	9.000	03/15/10
RCCC.GA	Rural Cellular	9.625	05/15/08

Symbol	Name	Coupon	Maturity
RCNC.GC	RCN Corp.	10.000	10/15/07
RSLU.GB	RSL Communications Plc	10.125	03/01/08
RSTS.GA	Raintree Resorts Intl. Inc.	13.000	12/01/04
RSUR.GA	Resort at Summerlin	13.00	12/15/07
SHLR.GA	Schuler Homes Inc.	9.00	04/15/08
SIND.GB	Synthetic Industries Inc.	9.250	02/15/07
SLYM.GA	Sealy Mattress	9.875	12/15/07
SLYM.GB	Sealy Mattress	10.875	12/15/07
SMLA.GA	Simcala Inc.	9.625	04/15/06
SUTG.GA	South'n Foods/SFG Cap Corp.	9.875	09/01/07
SVIS.GA	Spectra Vision Inc.	11.500	10/01/01
TCEN.GA	21st Century Telecom Gr Inc.	12.250	02/15/08
TGNT.GB	Teligant Inc.	11.500	03/01/08
TRNR.GB	Trans-Resources Inc.	10.750	03/15/08
TRUA.GA	Trump Atlantic City Assoc Inc.	11.250	05/01/06
TRUG.GA	Trump Atlantic City Assoc Inc.	11.250	05/01/06
UIHI.GC	United Int'l Holdings Inc.	10.750	02/15/08
USMR.GB	United Stationers Supply Co.	8.375	04/15/08
VCRO.GA	Vencor Operating Inc.	9.875	05/01/05
VNCA.GA	Venetian Casino/LV Sands Inc.	10.000	11/15/05
VNCA.GB	Venetian Casino/LV Sands Inc.	10.250	11/15/04
VRIO.GA	Verio Inc.	10.375	04/01/05
VRIO.GB	Verio Inc.	13.500	06/15/04
VSYS.GB	Viasystems Inc.	9.750	06/01/07
WMNT.GA	Wam Net Inc.	13.250	03/01/05
WRNH.GA	Werner Holdings Co.	10.000	11/15/07
WXMN.GA	Waxman USA Inc.	11.125	09/01/01
ZLOG.GA	Zilog Inc.	9.500	03/01/05

As of September 23, 1998, the following bonds were deleted from FIPS.

Symbol	Name	Coupon	Maturity
ASCM.GA	Associated Materials Inc.	11.500	08/15/03
BBY.GB	Best Buy Inc.	8.625	10/01/00
BEPT.GA	Brooks Fiber Properties Inc.	11.875	11/01/06
BRDO.GA	Bridge Oil USA Inc.	9.500	08/15/00
BYLP.GA	Bryland LP/Brylane Cap Corp.	10.000	09/01/03
CGGI.GA	Carbide/Graphite Group Inc.	11.500	09/01/03
CLNG.GA	Cole National Group Inc.	11.250	10/01/01
CONG.GA	Congoleum Corp.	9.000	02/01/01
CTF.GA	Cort Furniture Rental Corp.	12.000	09/01/00
DELL.GA	Dell Computer Corp.	11.000	08/15/00
FLIA.GA	Florida Steel Corp.	11.500	12/15/00
FNPH.GA	First Nationwide Parent Holdings Inc	12.500	04/15/03
GLCM.GB	General Chem Corp.	9.250	08/15/03
JORD.GC	Jordan Ind Inc.	10.375	08/01/03
LFI.GC	Levitz Furniture Corp.	13.375	10/15/98
MLTI.GA	Multicare Cos Inc.	12.500	07/01/02
MXMG.GA	Maxxam Group Inc.	12.250	08/01/03

Symbol	Name	Coupon	Maturity
MXMG.GB	Maxxam Group Inc.	11.250	08/01/03
PLUM.GA	Pacific Lumber Co.	10.500	03/01/03
RGRO.GE	Ralphs Grocery Co. New	13.750	06/15/05
SIDE.GA	Assoc Materials Inc.	11.500	08/15/03
SVIS.GA	Spectra Vision Inc.	11.500	10/01/01
TEP.GA	Tuscon Electric Power Co.	8.500	11/01/99
TOWV.GA	Stratosphere Corp.	14.25	05/15/02

As of September 23, 1998, changes were made to the symbols of the following FIPS bonds:

New Symbol	Old Symbol	Name	Coupon	Maturity
PGI.GA	PGH.GA	Polymer Group Inc.	9.00	07/01/07

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to Stephen Simmes, Market Regulation, NASD Regulation, Inc. (NASD RegulationSM), at (301) 590-6451.

Any questions regarding the FIPS master file should be directed to Cheryl Glowacki, Nasdaq[®] Market Operations, at (203) 385-6310.

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Audio Tape Order Form

NASD Regulation, Inc. CRD Conference

September 24-25, 1998 • Washington, DC

Please Check Session Numbers

CRD Conference

- 99801 **Welcome and General Session I:**
Modernization Prototypes Demonstration, Question & Answer Session
- 99802 **General Session II: Overview of CRD Modernization, Question & Answer Session**
- 99803 **CRD/Public Disclosure Department Update**
- 99804 **General Session III: Disclosure, Question & Answer Session**
- 99805 **General Session IV: PDP/I, Question & Answer Session**
- 99806 **General Session V: How a Form is Processed, Question & Answer Session (double tape)**

Complete To Order

Post-Conference Prices:

Number of Individual Sessions	_____	x	\$12.00	= \$	_____
Double Tape Session #99806	_____	x	\$19.00	= \$	_____
Complete Set of Conference Recordings	_____	x	\$71.10	= \$	_____

Sessions Sub-total = \$ _____

Sales Taxes: Maryland shipping addresses only \$ _____ x 5% = \$ _____

Amount of Sales Taxes = \$ _____

Shipping Charges:

\$2.25 for the first session		\$	_____ <small>2.25</small>
\$1.25 for each additional session (\$6.00 maximum shipping charge)	# _____	x	\$1.25 = \$ _____
\$13.50 extra shipping charge for orders outside of the US Postal System			= \$ _____

Shipping Sub-total = \$ _____

Grand Total = \$ _____

Your Name _____

Company _____

Street Address _____ MS/FI/Suite/Apt. # _____

City _____ State _____ Zip Code _____

Day Phone _____ Fax _____ E-mail _____

For Mail or Fax Charge Card Orders:

Visa MasterCard Discover AMEX Check (payable to A.V.E.R. Associates)

Cardholder Name _____ Card Number _____

Card Expiration Date _____ Cardholder Signature _____

Mail or Fax completed form and payment to:
A.V.E.R. Associates, 6974 Ducketts Lane, Elkridge, MD 21075, Phone 410-796-8940, Fax 410-796-8962

Disciplinary Actions

Disciplinary Actions Reported For November

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, November 16, 1998. The information relating to matters contained in this *Notice* is current as of the end of October 23.

Firm Expelled, Individuals Sanctioned

Hampton Capital Management Corp., (Stamford, Connecticut), Marquis Barnes Quetant (Registered Principal, Rosedale, New York), and Rhett McIntosh (Associated Person, Brooklyn, New York).

The firm was censured, fined \$40,000, and expelled from NASD membership. Quetant was censured, fined \$75,000, and barred from association with any NASD member in any capacity, and McIntosh was censured, fined \$65,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Quetant and McIntosh refused to allow the NASD staff to enter the firm's branch office to examine the firm's books and records and to otherwise conduct an on-site examination. Furthermore, Quetant and McIntosh falsely advised the staff that there was no one present at the branch office at the time of the NASD's visit and McIntosh also falsely advised the NASD that he was not employed by the firm. The firm, Quetant, and McIntosh also failed to appear at NASD pre-hearing conferences.

Firm Fined, Individuals Sanctioned

Lexington Capital Corporation (New York, New York), Alan Michael Berkun (Registered Principal, East Rockaway, New York), and Joseph Marc Blumenthal (Registered Representative, North Woodmere, New York)

submitted an Offer of Settlement pursuant to which the firm was censured, fined \$100,000, required to disgorge \$236,247.89, jointly and severally, with Berkun. In addition, the firm and Berkun are ordered to undertake to ensure that Berkun is not employed, affiliated, or otherwise associated with the firm and does not participate, directly or indirectly, in the management and/or operation of the firm after December 31, 1998. However, Berkun shall be permitted to retain a passive ownership interest in the firm until April 1, 1999, and shall have no direct or indirect ownership interest in the firm after April 1, 1999. The firm is also ordered to undertake to ensure that between September 16, 1998, and January 1, 1999, Berkun does not function in any supervisory or managerial capacity, and further, will ensure that he is only permitted to perform those duties specifically stated in the firm's Letter of Mitigation. Furthermore, the firm was ordered to undertake to review, modify, and improve its compliance and supervisory procedures so as to address the allegations (particularly those relating to penny stocks and markups) and to be immediately and permanently expelled from NASD membership if it fails to comply with any of the terms set forth in its Offer of Settlement. Berkun was censured, fined \$150,000, required to disgorge \$236,247.89, jointly and severally, with the firm, barred from association with any NASD member in the capacity of a general securities principal effective January 1, 1999, and barred from association with any NASD member as a general securities representative, with a right to

reapply in two years, effective January 1, 1999. Berkun will be eligible to reapply as a general securities representative on January 1, 2001. Berkun will be immediately and permanently barred from association with any NASD member in any capacity if he fails to comply with any of the terms set forth in his Offer of Settlement (including, but not limited to, that he only engage in those activities set forth in the firm's Letter of Mitigation). Blumenthal was censured, fined \$100,000, and barred from association with any NASD member in any capacity.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Berkun and others, allowed a statutorily disqualified individual to be associated with and conduct activities on behalf of the firm without first receiving the proper regulatory approvals. The firm failed to disclose on said individual's application for employment with the firm that he was the present and sole owner of a non-member firm and paid a commission to the non-member firm owned by the aforementioned statutorily disqualified person. The firm also failed to report to the NASD that it had conducted business with a firm owned by a person subject to a statutory disqualification. The findings also stated that the firm, acting through Berkun and others, executed sales of penny stocks to public customers while failing to make both the appropriate suitability determinations and disclosures required by the penny stock rules, and violated the firm's restriction agreement with the NASD by effecting penny stock transactions. Berkun failed to adequately supervise the firm's sales staff to ensure adherence to the aforesaid suitability and disclosure requirements. Furthermore, the NASD determined that the firm, acting through Berkun, sold unregistered

securities to the investing public improperly, and in connection with such sales, charged its customers fraudulently excessive markups, failed to disclose that the firm was acting as principal, and failed to disclose the amount of remuneration received by the firm. Additionally, the NASD found that the firm, acting through Berkun, allowed Blumenthal to conduct a securities business at the firm while his registration was inactive; falsified firm records, confirmations, orders tickets, and customer account statements; and engaged in a scheme to circumvent the NASD and various state registration requirements by deliberately processing transactions effected by Blumenthal under Berkun's registered representative number. The firm failed to adopt, maintain, and enforce a system to supervise the activities of the firm's registered representatives and associated persons that was reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules.

Firms And Individuals Fined
Dillon-Gage Securities, Inc. (Dallas, Texas) and Stephen Watterson Miller (Registered Principal, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$12,500, 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 Miller, participated in a public offering prior to filing the documents and information to be reviewed by the NASD, and receiving an opinion from the NASD that it has no objections to the proposed underwriting; and failed to enforce its own written supervisory procedures in that it failed to obtain a no-objection letter from the NASD prior to participating in an offering of securities.

The findings also stated that the firm, acting through Miller, participated in a contingency offering and failed to disclose to purchasers that the minimum would be reached through sales to affiliates of the issuer and since the sale to an affiliate represented a significant and material amount, the offering memorandum failed to disclose such purchase as a risk factor.

Paragon Capital Corporation (New York, New York) and Danny Jay Levine (Registered Principal, West Caldwell, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$40,000, jointly and severally. The firm was also fined \$95,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm and Levine reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable securities laws and regulations regarding trade reporting and recordkeeping. The firm also permitted an individual to engage in the investment banking or securities business of the firm when he was not registered with NASD. The findings also stated that the firm and Levine failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations regarding trade reporting, the limit order protection interpretation, the Small Order Execution SystemSM (SOESSM), best execution, the registration of persons with the NASD, and recordkeeping.

Providential Securities, Inc. (Fountain Valley, California) and Henry Dack Fahman (Registered Principal, Huntington Beach, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined

\$28,500, jointly and severally. In addition, Fahman was ordered to requalify by exam as a financial and operations principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting under the direction and control of Fahman, effected transactions in securities and/or induced or attempted to induce the purchase or sale of securities when the firm failed to have and maintain sufficient net capital. The findings also stated that the firm, acting through Fahman, failed to send public customers the requisite written notification or confirmation in securities transactions in that it did not disclose the difference in the price securities were purchased from and sold to customers and the firm's contemporaneous offsetting purchase or sale price to or from a Market Maker.

Firms Fined

GFI Group Inc. (New York, New York) 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 reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting and recordkeeping. The findings also stated that the firm failed to accept or decline a transaction in an eligible security within 20 minutes after execution, and failed to show on the memoranda of brokerage orders the time of execution or the correct time of execution. Furthermore, the NASD determined that 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 and registration of persons with the NASD.

International Securities Corporation (New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and ordered to undertake to revise its written supervisory procedures relating to firm quote compliance in a manner not unacceptable to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to execute orders presented to it and thereby 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 and regulations concerning the Securities and Exchange Commission (SEC) and NASD firm quote rules.

John Hancock Distributors, Inc. (Boston, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$100,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in connection with the offer and sale of interests in various limited partnerships, the firm distributed certain "internal use only" sales communications to its registered representatives and also provided certain sales communications to the public that omitted material information and included exaggerated, unwarranted, or misleading statements or claims regarding investments in certain limited partnerships.

Paribas Corporation (New York, New York) 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 transactions in Nasdaq National Market[®], Nasdaq SmallCapSM, over-the-counter, and listed securities in which it had reporting responsibility. The findings also stated that the firm reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting, and failed to provide written notification accurately disclosing the firm's reported price and the difference between the price to the customer and the reported trade price. Furthermore, the NASD determined that the firm failed to consistently and accurately reflect the time of entry and time of execution on order tickets and failed to implement and enforce adequate supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations relating to trade reporting.

Individuals Barred Or Suspended

Stanley Alan Anderson, Jr. (Registered Representative, Cartersville, Georgia) submitted an Offer of Settlement pursuant to which he was censured, fined \$379,583.75, barred from association with any NASD member in any capacity, and ordered to pay \$69,916.75 in restitution to a public customer. Without admitting or denying the allegations, Anderson consented to the described sanctions and to the entry of findings that he received a savings bond redemption check payable to a public customer in the amount of \$8,732.04. Rather than depositing the check in a government fund account as instructed by the customer, Anderson deposited it in his personal bank account, purchased only \$3,023.04 worth of the government fund, and converted the remaining \$5,709.00 to his own use and benefit. The findings also stated that Anderson withdrew \$2,029.66 from the customer's savings account and sold shares of stock totaling

\$34,219.71, without the customer's knowledge or authorization, and used the funds to purchase shares of the government fund for the customer. Furthermore, the NASD determined that Anderson made unauthorized sales from the customer's government fund, forged the customer's endorsement on redemption checks totaling \$15,224.61, and converted the proceeds and deposited the funds in his bank account and converted a \$4,750 check and additional funds totaling \$44,233.14 from the bank account of the customer without the customer's knowledge or consent. In addition, the findings stated that Anderson made numerous misrepresentations to the customer regarding her investments, falsely represented himself as another employee of his member firm, submitted new accounts applications that contained false information regarding the accounts, and failed to respond to NASD requests for information.

Mark Scott Blonder (Registered Principal, Plainview, New York)

was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Blonder failed to respond to NASD requests for information.

Thomas J. Brown (Registered Representative, Nanuet, New York)

was censured, fined \$160,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brown misappropriated funds in the amount of \$24,000 that he received from a public customer as a premium payment on the customer's life insurance policy. Brown also failed to respond to NASD requests to appear for an on-the-record interview and to respond to NASD requests for information.

Frank John Bursinger, III (Registered Representative, Seal Beach, California)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,280, and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Bursinger consented to the described sanctions and to the entry of findings that he participated in private securities transactions but failed to provide prior written notification to and receive permission from his member firm.

Ming Cheng (Registered Representative, Ridgewood, New York)

was censured, fined \$78,745, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cheng caused his member firm to issue a check for \$749 to him on behalf of an insurance customer, forged the customer's signature on the check, and converted the funds to his own use and benefit. Cheng also failed to respond to NASD requests for information.

Darcie Coy (Registered Principal, Lakewood, Colorado)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$2,500, suspended from association with any NASD member in any capacity as a financial and operations principal for 30 days, and required to requalify by exam before functioning again in that capacity. Without admitting or denying the allegations, Coy consented to the described sanctions and to the entry of findings that her member firm acting through Coy failed to deposit promptly to an escrow account checks received from public customers of her firm in connection with the offer and sale of securities subject to a minimum sales contingency.

Michele Ann Desilets (Registered Principal, Littleton, Colorado)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which

she was censured, fined \$10,000, suspended from association with any NASD member in any principal capacity for 10 business days which shall be served in two five-business-day periods in successive months. Without admitting or denying the allegations, Desilets consented to the described sanctions and to the entry of findings that she failed to establish a supervisory system that was reasonably designed to achieve compliance with applicable SEC and NASD laws, rules, and regulations.

Desilets' second suspension for five business days will begin December 21, 1998, and will conclude at the close of business on December 28, 1998.

Ernesto Diaz (Associated Person, Corona, New York)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Diaz consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Sidney C. Eng (Registered Principal, Mill Valley, California)

was censured, fined \$75,000, and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of an April 1997 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that Eng engaged in insider trading by purchasing shares of stock while in possession of material, non-public information.

Robert Vance Manuel English (Registered Principal, San Diego, California)

submitted an Offer of Settlement pursuant to which he was censured, fined \$232,858.45, and

barred from association with any NASD member in any capacity. Without admitting or denying the allegations, English consented to the described sanctions and to the entry of findings that he received \$20,571.69 from a public customer intended for investment purposes and without the customer's knowledge or consent, converted the funds to his own use and benefit by depositing the checks into his member firm's general operating bank account and wrote checks on the account payable to himself and to cash. In order to conceal his misconduct, English provided the customer with fabricated statements to mislead the customer into believing that her funds had been safely invested and were accumulating interest. English also failed to respond to NASD requests for information and to provide testimony.

Gary Wayne Fenster (Registered Representative, Council Bluffs, Iowa) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Fenster consented to the described sanctions and to the entry of findings that he 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.

John Kevin Finn (Registered Principal, Dubuque, Iowa) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Finn consented to the described sanctions and to the entry of findings

that he failed to respond completely to NASD requests for information.

Brad B. Fletcher (Registered Representative, Aventura, Florida) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Fletcher failed to respond to an NASD request for information.

Dean Scott Friedman (Registered Principal, Glen Head, New York), Kenneth James Fuina (Registered Principal, White Plains, New York), George Patsis (Registered Representative, Brooklyn, New York), Joseph Teseo (Registered Representative, Atlantic Beach, New York), and Peter T. Tsadilas (Registered Representative, North Hills, New York) submitted Offers of Settlement pursuant to which Friedman was censured, fined \$15,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by taking the Series 7 exam prior to acting in that capacity. Fuina was censured, fined \$10,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam for the Series 7 or Series 62 prior to becoming associated with any NASD member firm. Patsis was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Teseo was censured, fined \$20,000, suspended from association with any NASD member in any capacity for two years, and required to requalify by exam prior to becoming associated with any NASD member firm, and Tsadilas was censured, suspended from association with any NASD member in any capacity for two years, and required to requalify by exam prior to becoming associated with any NASD member firm.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Friedman, Fuina, Patsis, Teseo, and Tsadilas made baseless and improper price predictions pertaining to highly speculative securities and engaged in unauthorized trading in the accounts of public customers. The findings also stated that Friedman, Fuina, Teseo, and Tsadilas discouraged or failed to execute customer sell orders, and Patsis discouraged or failed to execute sell orders on a timely basis. Furthermore, the NASD determined that Friedman, Patsis, and Teseo made false promises to customers to limit their losses, Friedman made improper comparisons between unrelated securities, and Patsis misled a customer as to risk and falsely led a customer to believe he had access to inside information as to an issuer whose securities he was selling. The NASD also determined that Teseo and Tsadilas provided false testimony during an NASD investigation and Tsadilas improperly promised to make up losses with new trading, and falsified a customer's account records as to the customer's state of residence and financial condition.

Jay J. Gelfenbaum (Registered Representative, Coral Springs, Florida) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Gelfenbaum failed to respond to NASD requests for information.

Henry C. Glogowski (Registered Representative, Butler, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Glogowski con-

sent to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

John Edward Guerriero, Jr. (Registered Representative, Rockville Centre, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$30,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Guerriero consented to the described sanctions and to the entry of findings that he failed to appear to testify on the record before the NASD. The findings also stated that without his member firm's knowledge or authorization, Guerriero entered into a separate agreement with public customers under which he agreed to make monetary payments to the respective customers and thereafter paid money to them in settlement of a claim or complaint against him by the customers.

Kenneth Michael Kinzler (Registered Representative, Chicago, Illinois) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Kinzler failed to respond to NASD requests for information.

Steven Albert Kirschbaum (Registered Representative, Coral Springs, Florida) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal and call for review of an Atlanta District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Kirschbaum forged the signatures of public customers on change of dealer forms or new account forms.

Michael Richard MacCaull (Registered Representative, Commack, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$185,673, barred from association with any NASD member in any capacity with the right to reapply after five years, and ordered to pay \$23,672 in restitution to a public customer or demonstrate that he has paid the customer such amount as has been determined in an arbitration or other proceeding or settlement to be owed to the customer. Without admitting or denying the allegations, MacCaull consented to the described sanctions and to the entry of findings that he made material misrepresentations and omitted to disclose material facts in connection with his recommendations of securities to public customers. The findings also stated that MacCaull guaranteed a public customer against loss in the customer's account; entered a purchase order in the account of a public customer without obtaining the customer's authorization; and made fraudulent, baseless, and unreasonable price predictions to customers. Furthermore, the NASD determined that MacCaull failed to follow a customer's instructions to sell securities in the customer's account.

Timothy Francis Manning, Jr. (Registered Representative, Spring Lake Heights, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Manning consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Scott Thomas McMahon (Registered Representative, South Bend, Indiana) submitted a Letter of Acceptance, Waiver, and Consent

pursuant to which he was censured, fined \$10,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McMahon consented to the described sanctions and to the entry of findings that he received checks totaling \$8,500 from a public customer made payable to McMahon for deposit in a non-qualified tax deferred annuity account, negotiated and cashed the checks, and used the funds for some purpose other than for the benefit of the customer.

Michael Joseph Minnehan (Registered Representative, Milford, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$40,930.80, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Minnehan consented to the described sanctions and to the entry of findings that, without the knowledge or consent of public customers, he endorsed and cashed policyholder cash surrender checks totaling \$6,186.16, which were payable to the customers and converted the funds to his own use and benefit.

Kent Davis Peterson (Registered Representative, St. George, Utah) 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 one month, and required to re-take the Series 63 exam within 90 days of the conclusion of the suspension. Without admitting or denying the allegations, Peterson consented to the described sanctions and to the entry of findings that he made cash payments totaling \$900 to an individual who made a public customer referral to him. The findings also stated that Peterson affixed the signatures of public customers to

various documents required by his member firm to be signed by the customers, with the knowledge and consent of the customers, but failed to disclose to his firm that he, not the customers, had affixed the signatures.

Mark Eugene Rowe (Registered Representative, Wexford, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,800, suspended from association with any NASD member in any capacity for 15 business days, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, Rowe consented to the described sanctions and to the entry of findings that he recommended to a public customer and effected in the customer's securities accounts, the purchase of securities without having reasonable grounds for believing the respective securities were suitable for the customer.

Bernice Anne Sanders (Registered Principal, Clinton, Maine) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sanders consented to the described sanctions and to the entry of findings that she engaged in private securities transactions by selling \$184,000 in promissory notes to public customers without prior written notice to and approval from her member firm.

James Leonard Schermerhorn (Registered Representative, Santa Maria, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$40,762.70, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schermer-

horn consented to the described sanctions and to the entry of findings that he received insurance premium payments from a public customer totaling \$8,344.54, forwarded only \$2,192 of the customer's funds to the insurance company, and converted the remaining funds for his personal benefit.

Kevin Eric Shaughnessy (Registered Principal, Pittsburgh, Pennsylvania) was censured, fined \$11,675, barred from association with any NASD member in any capacity, required to pay \$390 in losses to customers, and required to pay \$1,526.37 in commissions to customers. The SEC affirmed the sanctions following appeal of a Market Regulation Committee decision. The sanctions were based on findings that Shaughnessy entered into an arrangement with a non-registered individual whereby he agreed to sell shares of stock to his retail customers in exchange for compensation, without disclosing the arrangement with the customers or his member firm.

Evan Russell Stoopler (Registered Principal, Jericho, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for one week. Without admitting or denying the allegations, Stoopler consented to the described sanctions and to the entry of findings that he 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. The findings also stated that Stoopler failed to indicate on the order tickets for these transactions that such trades were discretionary, and incorrectly indicated on the order tickets that such trades were unsolicited.

Richard Ray Vaillant (Registered Representative, Tacoma, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$35,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Vaillant consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Wayne E. Warren-Young (Registered Representative, Atlanta, Georgia) was censured, fined \$85,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Warren-Young accepted a \$50,000 check from a public customer for investment in mutual funds, deposited the check in a bank account of a private company contrary to the customer's instruction and, without his member firm's knowledge, failed to comply with the customer's demand for return of the money. Warren-Young also failed to respond to NASD requests for information.

Gerald Mark Wilkinson (Registered Representative, York, Nebraska) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Wilkinson consented to the described sanctions and to the entry of findings that he functioned as an investment company and variable contract products representative and engaged in a securities business by preparing a variable annuity application and accepting a customer check for such investment before his registration in such capacity was effective.

Individuals Fined

Steven Morris Goldsmith (Associated Person, Wayzata, Minnesota)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$16,621. Without admitting or denying the allegations, Goldsmith consented to the described sanctions and to the entry of findings that he failed to advise his member firm that he opened an account with another firm, and failed to provide written notification to the executing firm of his association with the member firm. The findings also stated that Goldsmith purchased shares of stock that traded at a premium in the secondary market in violation of the NASD Board of Governors' Free-Riding and Withholding Interpretation.

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of October 23, 1998.

The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Steven Douglas Goodman (Registered Principal, Allison Park, Pennsylvania), Albert Joseph Ford (Registered Representative, Oakton, Virginia), and Douglas Francis Andrews (Registered Principal, Ashburn, Virginia). Goodman was censured, fined \$75,000, and barred from association with any NASD member in any capacity. Ford was censured, fined \$95,000, and barred from association with any NASD member in any capacity, and Andrews was censured, fined \$75,000, and barred from association with any NASD

member in any capacity. The sanctions were based on findings that the respondents, in their capacities as branch managers, through their supervisions of the activities of the registered representatives assigned to them, encouraged, directed, participated in and/or facilitated a "boiler room" operation featuring high pressure sales tactics, material misrepresentations and omissions, unfounded price predictions, the use of false and misleading scripts and research summaries, and unauthorized transactions, among other things, and, in their individual capacities as registered representatives, engaged in the same violative activities in their dealings with their own customers. In addition, Ford effected unauthorized securities transactions in customer accounts.

Goodman, Ford, and Andrews have appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal.

Stuart Gordon Horowitz (Registered Representative, Boca Raton, Florida) was censured, fined \$90,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Horowitz failed to amend a Form U-4 to disclose that his license to practice law had been suspended by the Supreme Court of Florida and that he was the subject of an investigation by the Florida Bar. Horowitz also failed to respond to NASD requests for information.

Horowitz has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal.

John David Morgan (Registered Representative, Dunedin, Florida) was censured, fined \$10,000, and

suspended from association with any NASD member in any capacity for three business days. The sanctions were based on findings that Morgan exercised discretion in a public customer's account without having a signed discretionary agreement giving him such authorization and effected unauthorized securities transactions in the account. Also, Morgan guaranteed the customer against loss in that he purchased additional shares of stock for the customer without the customer's knowledge in order to cover the drop in value of the first shares.

This action was called for review by the NAC and the sanctions are not in effect pending consideration of the review.

Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Nicholas Mario Antonelli (Registered Representative, Hauppauge, New York) and **Alexander Velez (Registered Representative, Brentwood, New York)** were named as respondents in an NASD complaint alleging that they failed to obey public customers' instructions to sell securities in the customers' accounts. The complaint alleges that Antonelli effected a securities transaction in a public customer's account without the prior knowledge or authorization of the customer. The complaint also alleges that Antonelli knowingly completed a public cus-

customer's new account application with a false address in an effort to avoid the effect of the suspension of his member firm in the customer's state of residence. The complaint also alleges that Velez failed to complete his Form U-4 accurately in failing to disclose that he was the subject of complaints and investigations.

Delio Pereira DaSilva (Registered Representative, Campbell, California) was named as a respondent in an NASD complaint alleging that he effected transactions in the account of public customers without the knowledge and consent of the customers. The complaint alleges that DaSilva received and misused \$11,813.95 belonging to the customers. The complaint also alleges that DaSilva provided a business card to a public customer which falsely represented that DaSilva was a principal of an NASD member firm. The complaint also alleges that DaSilva failed to provide documents requested by the NASD.

Jasen Michael Devlin (Registered Principal, Bayshore, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and failed to disclose material facts to public customers in connection with his recommendations to purchase securities. The complaint alleges that Devlin predicted the future prices of securities without a reasonable basis to public customers in order to induce the customers to purchase securities. The complaint also alleges that Devlin failed to execute a public customer's orders to sell securities.

Jeffrey Harold Hamsher (Registered Representative, Sinking Spring, Pennsylvania) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omissions of material fact in connection with his purported offer and sale of Treasury

bonds to public customers. The complaint alleges that Hamsher used public customers' funds in an amount totaling approximately \$71,000, for some purpose other than for the benefit of the customers, without their consent or authority. The complaint also alleges that Hamsher engaged in private securities transactions without prior written notice to and approval from his member firm. The complaint also alleges that Hamsher failed to respond to NASD requests for information.

Frank James Hutton (Registered Representative, Brandon, Mississippi) was named as a respondent in an NASD complaint alleging that he executed securities transactions in the accounts of public customers without prior authorization from the customers. The complaint alleges that Hutton caused a check in the amount of \$29,972.71 to be issued from the joint account of public customers which represented the proceeds from the unauthorized sale of securities, and converted the \$29,972.71 to his own use and benefit by forging the customers' signatures to the check and depositing the check into a bank account under his control, without the customers' knowledge or consent. The complaint alleges that in an effort to conceal the unauthorized transactions, Hutton prepared and mailed to the customers a fictitious monthly account statement that did not reflect the unauthorized transactions and that did not reflect his withdrawal of funds. The complaint also alleges that Hutton effected withdrawals totaling \$96,552.40 from the joint account of other public customers, and converted the \$96,552.40 to his own use and benefit by forging the customers' signatures on checks and maintaining possession of the funds, without the customers' knowledge or consent. The complaint also alleges that Hutton failed to respond to NASD requests for information.

Brian Joseph Lichtlin (Registered Representative, Secaucus, New Jersey) was named as a respondent in an NASD complaint alleging that he effected securities transactions in the accounts of public customers, without the customers' knowledge or consent, and in the absence of written or oral authorization to exercise discretion in the customers' accounts. The complaint alleges that in connection with these unauthorized transactions, Lichtlin affixed the customers' signatures on documents purporting to state that the transactions were unsolicited. The complaint also alleges that Lichtlin failed to respond to NASD requests for information.

Robert Charles Madrid (Registered Representative, Blue Island, Illinois) was named as a respondent in an NASD complaint alleging that he executed securities transactions in the account of a public customer without the knowledge or consent of the customer and exercised discretion in the account without the customer's written or oral authorization. The complaint alleges that Madrid failed to respond to NASD requests for information.

Jeffrey David Miller (Registered Representative, Moody, Alabama) was named as a respondent in an NASD complaint alleging that he received a check in the amount of \$2,558 from a public customer for the purchase of insurance policies, failed and neglected to execute the purchase of these insurance policies, and instead misappropriated or converted the \$2,558 to his own use without the customer's consent. The complaint alleges that Miller failed to amend his Form U-4 to disclose a civil judgment against him in the amount of \$11,293.85 and to disclose the filing of a federal tax lien against him by the Internal Revenue Service for payroll taxes in the amount of \$47,329.94. The complaint also alleges that Miller failed to

respond to NASD requests for information.

Luis Jaime Ramirez (Registered Representative, Manhasset Hills, New York) was named as a respondent in an NASD complaint alleging that he requested his member firm issue checks totaling \$17,124.50 that represented dividend disbursements from public customers' life insurance policies, then deposited proceeds from these checks into his own account without the knowledge, permission, or authority of the customers. The complaint alleges that Ramirez engaged in forgery in that he caused his member firm to issue a disbursement check in the amount of \$5,759.45 to a public customer at Ramirez's post office box, when the customer had not given Ramirez permission or authority to issue the check and had not provided the firm with a change of address notification that listed Ramirez's post office box as her "current" address. The complaint also alleges that Ramirez failed to provide documents and/or information requested by the NASD.

Darrin Patrick Sullivan (Registered Representative, Holbrook, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and failed to disclose material facts to public customers in connection with his recommendations to purchase securities. The complaint alleges that Sullivan made baseless, fraudulent price predictions to public customers in connection with his recommendations to purchase securities. The complaint also alleges that Sullivan insulted and berated a public customer when the customer refused to purchase securities. The complaint also alleges that Sullivan failed to respond to an NASD request to appear for an on-the-record interview.

Victoria Jean Williams (Registered Representative, Sunset Beach, California) was named as a respondent in an NASD complaint alleging that she received \$1,000 from a public customer for investment in securities and instead, improperly caused the customer's funds to be deposited into the account of Williams' landlord without the customer's knowledge or consent.

Firms Suspended/Canceled

The following firms were suspended/canceled from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspensions/cancellations commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Aequus Equities, Inc., New York, New York (October 5, 1998)

Alliance Asset Group, Inc., Englewood Cliffs, New Jersey (October 5, 1998)

Biscayne Capital LLC, New York, New York (October 5, 1998)

Block Trading, Inc., Houston, Texas (October 5, 1998)

First International Capital LTD., Hamilton, Bermuda (October 5, 1998)

Great American Financial Network, Inc., Norcross, Georgia (October 5, 1998)

Great Lakes Capital, Inc., Vero Beach, Florida (October 5, 1998)

Hemisphere Capital Corp., New York, New York (October 5, 1998)

Nationwide Asset Management Corporation, Laguna Hills, California (October 5, 1998)

Firms Suspended Pursuant To NASD Rule Series 9510 For Failure To Pay Arbitration Award

Capital World Securities Corporation, City of Industry, California (October 13, 1998)

First Cambridge Securities Corp., New York, New York (September 23, 1998)

State Capital Markets Corp., New York, New York (September 23, 1998)

Individuals Whose Registrations Were Revoked For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations

Buonocore, Louis T., Staten, Island, New York (October 16, 1998)

Donart, Donald C., Tucson, Arizona (September 18, 1998)

Elgindy, Amr I., Colleyville, Texas (September 18, 1998)

Falco, Michael J., Marshfield, Massachusetts (October 16, 1998)

Mooney, William J., Bayside, New York (October 16, 1998)

Portier, Frank J., Columbus, Ohio (October 16, 1998)

Schiano, Anthony D., Franklin Square, New York (October 16, 1998)

Wallach, John M., Lakeworth, Florida (October 16, 1998)

Individuals Suspended Pursuant To NASD Rule Series 9510 For Failure To Pay Arbitration Awards

Feintuch, Ira, Englewood, New Jersey (October 9, 1998)

Fleischmakher, Isaac, Chicago, Illinois (September 9, 1998)

Gaer, Jason Robert, Paramus, New Jersey (September 25, 1998 - October 1, 1998)

Lantieri, John Charles, Edison, New Jersey (October 2, 1998)

Leffel, Jasen E., Maineville, Ohio (October 2, 1998)

Liounis, Peter, Brooklyn, New York (September 23, 1998)

Richardson, Michael J., Astoria, New York (September 23, 1998 - September 29, 1998)

Ruffler, Kirk, Perrineville, New Jersey (September 9, 1998)

Smith, Tony Raynard, New York, New York (October 9, 1998)

NASD Regulation Charges LT Lawrence & Co., Inc. And Principals With Fraud

NASD Regulation announced that it issued a complaint charging LT Lawrence & Co., Inc., New York, NY; its Chief Executive Officer, Lawrence Principato, Staten Island, NY; and its President, Todd E. Roberti, Florham Park, NJ, with excessive and fraudulent markups and markdowns in the trading of EcoTyre Technologies, Inc. Common Stock and Class A Warrants. The firm, along with Principato and Roberti, was also charged with failing to establish, implement, and enforce adequate supervisory procedures designed to prevent the alleged conduct.

According to the complaint, LT Lawrence, after acting as the managing underwriter of EcoTyre's initial public offering, dominated and controlled the trading in the company's common stock and warrants from February 6, 1996 through March 29, 1996. During this time, LT Lawrence charged its customers, residing in 35 states, excessive markups and markdowns totaling \$487,642.58 in 474 separate transactions. As many as 58 percent of these transactions were at prices that were fraudulently excessive, in that they charged their customers markups and markdowns more than 10 percent totaling \$306,277.39 in 275 transactions.

In the complaint, NASD Regulation does not allege any wrongdoing on the part of EcoTyre.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by the Association in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because this complaint is unadjudicated, you may wish to contact the respondents before drawing any conclusion regarding the allegations in the complaint.

Under NASD Regulation rules, the individuals and the firms named in the complaint can file a response and request a hearing before an NASD Regulation disciplinary panel. Possible sanctions include a fine, suspension, bar, or expulsion from the NASD.

NASD Regulation Institutes Proceedings Against 59 Firms for Late Y2K Filings

NASD Regulation announced disciplinary actions against 59 brokerage firms for late filing of required "Year 2000" status reports. Thirty-seven of

the firms entered into settlements agreeing to be censured and pay fines ranging from \$2,300 to \$3,200. Complaints have been issued against the remaining 22 firms. Today's actions are part of a coordinated effort with the SEC.

According to a rule adopted by the SEC earlier this year, every brokerage firm with a minimum net capital requirement of \$5,000 or more, was required to inform the NASD and the SEC, no later than August 31, 1998, of its Year 2000 readiness by filing a Form BD-Y2K. The form required firms to detail the efforts they are taking to identify and remedy their potential technical problems arising from the transition to the year 2000. All of the firms included in today's actions failed to file either the form or a significant portion of the form within a "grace period" which expired September 21, 1998. Firms will again be required to file this report in April 1999.

"Today's actions reflect NASD Regulation's commitment to ensuring that all brokerage firms recognize and address the potential problems of the year 2000 before it is too late. It is crucial for investor protection that firms not delay in readying their systems," said Mary L. Schapiro, President, NASD Regulation.

NASD Regulation's actions were coordinated with 37 separate disciplinary proceedings instituted today by the SEC against firms that failed to file the required reports by October 2, 1998. NASD Regulation acknowledges the valuable assistance provided by the SEC staff in these matters.

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- Accidental death & dismemberment (AD&D)

If you receive a Form W-2 or 1099 from an NASD member firm, you may be eligible to apply.

Call (888) BUY-NASD (289-6273)

Note: Program plans may vary by state.