

Disciplinary Actions

REPORTED FOR OCTOBER

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of September 2002.

Firms and Individuals Fined

Conseco Securities, Inc. (CRD #29367, Carmel, Indiana) and Carlos Guevera (CRD #1697335, Registered Principal, Hillsborough, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000 jointly and severally. The firm was also fined \$65,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Guevera, failed to establish, maintain, and enforce adequate written supervisory procedures regarding variable annuity transactions. The findings also stated that the firm failed to ensure that its offices of supervisory jurisdiction were subject to annual inspections, and a review of variable annuity sales revealed where there was no written evidence that a principal had reviewed the transaction. Furthermore, NASD found that the firm failed to maintain customer files for all of its variable annuity business and was unable to provide documentation for variable annuity sales. In addition, NASD found that the firm failed to obtain customer information concerning financial status, tax status, investment objectives, and other similar information necessary for making a suitability determination and conducting related supervisory reviews. **(NASD Case #C9B020058)**

Elite Investments, LLC (CRD #42794, Greeley, Colorado) and John Brady Guyette (CRD #1711681, Registered Principal, Greeley Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm received customer complaints that were required to be reported to NASD but were not reported. The findings also stated that the firm, acting through Guyette, failed to establish, maintain, and enforce procedures reasonably designed to result in the tape recording of all conversations required to be taped and reviewed pursuant to NASD Rule 3010(b)(2). **(NASD Case #C3A020042)**

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) and Herbert Kurinsky (CRD #276776, Registered Representative, Long Branch, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$25,000 jointly and severally. The firm was also fined \$20,000, required to pay \$17,293 in restitution to public customers, and required to update its written supervisory procedures to address deficiencies regarding its mutual fund procedures. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that

the firm, acting through Kurinsky, failed to establish, maintain, and enforce an adequate supervisory system and written supervisory procedures regarding its mutual fund business. The findings stated that the firm failed to reasonably supervise a former registered representative who was engaged in a pattern of unsuitable mutual fund recommendations to public customers. NASD found that the firm incorrectly reported the trader in National Market Securities (NMS), NASDAQ SmallCapSM and OTC securities to the Automated Confirmation TransactionSM service (ACTSM) and reported the incorrect modifier, incorrect price, incorrect volume, and incorrect capacity. Furthermore, NASD found that the firm failed to report trades to the Fixed Income Pricing SystemSM (FIPSSM) as required, and executed a customer order without using reasonable diligence to determine the best inter-dealer market for the relevant security so that the resultant price to the customer was as favorable as possible under prevailing market conditions. In addition, the findings stated that the firm failed to comply with Securities and Exchange Commission (SEC) Rule 17a-3, in that order tickets processed by the firm were not properly time-stamped. **(NASD Case #C9B020053)**

Liss Financial Services (CRD #21950, Milwaukee, Wisconsin) and Jerome Edward Liss (CRD #310709, Registered Representative, Belgium, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$20,000 jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Liss, failed to timely file an amended Uniform Application for Securities Industry Registration or Transfer (Form U-4) on 30 separate occasions for nine registered representatives to report customer complaints, arbitration settlements, and arbitration awards. The findings stated that the firm, acting through Liss, failed to comply with the firm's reporting requirements, in that it failed to promptly report to NASD that the firm and persons associated with the firm were respondents in arbitrations which had been disposed of by awards and settlements in amounts exceeding \$25,000 against the firm, exceeding \$15,000 against the associated person, and were reported late. NASD found that the firm, acting through Liss, failed to timely report to NASD a customer complaint. In addition, the findings stated that the firm, acting through Liss, failed to timely report terminations and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules of NASD in that the procedures failed to state the supervisory steps to ensure that amendments to Forms U-4 and Uniform Termination Notices for Security Industry Registration (Forms U-5) were timely and accurately filed, stated how often supervisory procedures should be performed, and stated how such supervisory procedures should be evidenced by the firm. **(NASD Case #C8A020062)**

Firms Fined

CIBC World Markets Corp. (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented to the firm at its published bid or published offer in an amount up to its published quotation size upon presentment, and thereby failed to honor its published quotation. The findings also stated that the firm, as a market maker in securities, locked/crossed the market during the pre-opening market period and failed to send immediately thereafter a Trade-or-Move message through SelectNet® to the market participant whose quote it locked or crossed that was priced at the receiving market participant's quoted price, and/or failed to send a Trade-or-Move message through SelectNet with an aggregate size of at least 5,000 shares to all market participants whose quotes it locked/crossed. NASD also found that the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening; received a Trade-or-Move message in each instance through SelectNet; and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. **(NASD Case #CMS020146)**

Divine Capital Markets LLC, f/n/a Level Jump Trading, Inc. (CRD #118212, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct price of the transactions through ACT in last-sale reports of transactions in NASDAQ National Market® (NNM®), NASDAQ SmallCap, and OTC Equity Securities. In addition, NASD found that the firm failed to transmit through ACT last-sale reports of transactions in NNM and OTC Equity securities, and failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each order was at a price that would have improved the firm's bid or offer in each security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each security. The findings also stated that the firm reported customer short-sale transactions through ACT without a short-sale modifier, and executed short-sale transactions in NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. NASD also found that the firm, acting as principal, failed to disclose to customers that it was a market maker in the security, and failed to disclose the

reported trade price and the difference between the reported trade price and the price to a customer. (NASD Case #C06020010)

GVR Company LLC (CRD #111528, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured; fined \$75,000; required to pay \$1,644.20, plus interest, in restitution to public customers; and required to revise its written supervisory procedures concerning trade reporting, ACT compliance, best execution, Limit Order Protection Interpretation, books and records, SEC Order Execution Rules, One Percent Rule, 21(a) Report issues, transaction reporting, recordkeeping, locked and crossed markets, short sales, front running, anti-competitive practices, registration of traders and supervisors, and the Order Audit Trail SystemSM (OATSSM). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. NASD also found that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM, NASDAQ SmallCap, OTC Equity and eligible securities, and failed to designate through ACT such last-sale reports as late. NASD also determined that the firm incorrectly designated as ".T" through ACT last-sale reports of transactions in OTC Equity, NNM, and SmallCap securities executed during normal market hours.

The findings also stated that the firm failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution; and as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market participants whose quotations would be locked or crossed, entered a bid or ask quotation in the NASDAQ Stock Market, Inc., which caused a locked or crossed market condition to occur in each instance. In addition, NASD determined that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. Furthermore, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations and the rules of NASD concerning trade reporting, ACT compliance, best execution, Limit Order Protection Interpretation, books and records, SEC Order Execution Rules, One Percent Rule, 21(a) Report issues, transaction reporting, recordkeeping, locked and crossed markets, short sales, front running, anti-competitive practices, registration of traders and supervisors, and OATS. (NASD Case #CMS020139)

Hill, Thompson, Magid & Co., Inc. (CRD #2202, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$21,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. NASD also found that the firm incorrectly designated as ".PRP" through ACT last-sale reports of transactions in NNM and OTC Equity securities. The findings stated that the firm also failed to report to ACT transactions in NNM, NASDAQ SmallCap, and OTC equity securities with the correct media volume and the correct symbol indicating whether such transactions were effected as principal, riskless principal, or agency. In addition, NASD found that the firm executed short-sale transactions and failed to report each of these transactions to ACT with a short-sale modifier. Furthermore, the findings stated that the firm incorrectly accepted transactions in eligible securities in ACT without correcting the reporting firm's report to ACT that included an incorrect symbol indicating whether the firm executed the transactions in a principal or agency capacity. (NASD Case #CMS020157)

HSBC Securities Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in the securities, it failed to execute orders upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning firm quotations. (NASD Case #CMS020140)

Merrill Lynch, Pierce, Fenner & Smith, Inc. (CRD #7691, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$65,000, and required to provide to NASD within 60 days a copy of the firm's written procedures regarding the accurate and prompt submission of all Form U-5 filings pertaining to the termination of persons for whom the firm has maintained a registration with NASD, indicating the name and title of the principals responsible. The firm is also required for one year to continue the firm's ongoing review of its current policies and procedures relevant to the reporting of terminations on Forms U-5, and to prepare and submit semi-annual reports to NASD that set forth the findings of the review and any corrective actions implemented. In addition, the firm will submit to NASD for one

year semi-annual summary reports outlining the details of every late Form U-5 filing pertaining to the termination of a person for whom the firm maintained a registration, if any, made within the prior six months with an explanation of the cause of delay, the principal responsible for ensuring the timely filing of the Forms U-5 in question, and any corrective action taken. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to file Forms U-5 within 30 days of termination of the associated person. (NASD Case #C10020077)

Murphy & Durieu (CRD #6292, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM securities. (NASD Case #CMS020148)

Phillip Louis Trading, Inc. (CRD #19378, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to revise its written supervisory procedures concerning SEC and NASD firm quote and trade-reporting rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders upon presentment and thereby failed to honor its published quotation. NASD also found that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM, NASDAQ SmallCap, and OTC equity securities, and failed to designate through ACT such last-sale reports as late. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning SEC and NASD firm quote and trade-reporting rules. (NASD Case #CMS020149)

ProTrader Securities Corporation (CRD #35233, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, and required to revise its written supervisory procedures concerning OATS. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit to OATS required information on 19 business days during the review period. NASD also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and the rules of NASD concerning OATS. (NASD Case #CMS020152)

Raymond James Financial Services, Inc. (CRD #6694, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm

consented to the described sanctions and to the entry of findings that it failed to report statistical and summary information concerning customer complaints. (NASD Case #C07020068)

RBC Dain Rauscher Inc. (CRD #31194, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet to the market maker(s) whose quote(s) it locked or crossed a Trade-or-Move Message(s) that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. NASD found that the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move Message in each instance through SelectNet, and within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move Message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. The findings also stated that the firm, as a registered market maker in securities, failed to execute orders upon presentment and thereby failed to honor its published quotation. (NASD Case #CMS020138)

SWS Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it locked/crossed the market during the pre-opening market period and failed to immediately thereafter send a Trade-or-Move Message through SelectNet to the market participant whose quote it locked or crossed that was priced at the receiving market participant's quoted price; and/or failed to send a Trade-or-Move Message(s) through SelectNet with an aggregate size of at least 5,000 shares to all market participants whose quotes it locked/crossed. (NASD Case #CMS020155)

Individuals Barred or Suspended

Harry Michael Anthony (CRD #2356706, Registered Representative, Belle Vernon, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, required to pay \$1,600 in disgorgement of commissions, and required to pay \$1,375 in restitution to public customers. In addition, Anthony will attend sales-practice training with an emphasis on mutual fund-related issues. The fine must be paid before Anthony

reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Anthony consented to the described sanctions and to the entry of findings that he made unsuitable mutual fund recommendations to his member firm's customers and engaged in short-term trading in a customer's account. The findings also stated that Anthony engaged in unsuitable switching by recommending that a customer switch from Class A shares to Class B shares in different fund families. NASD determined that these recommendations were unsuitable because there were funds within a family of funds that were sold with investment objectives and holdings comparable to the funds that were purchased. The findings stated that the customer could have taken advantage of "free exchanges" within his existing funds at no additional cost. Instead, the customer incurred higher fees and a contingent deferred sales charge period while Anthony received a full commission on each new purchase. In addition, NASD determined that Anthony effected transactions in the account of a public customer without obtaining prior written authorization from the customer and written acceptance of the account as discretionary by his member firm.

Anthony's suspension began October 7, 2002, and will conclude at the close of business October 18, 2002. (NASD Case #C9B020057)

Chad Michael Arnholt (CRD #2632682, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for six months. In light of the financial status of Arnholt, no monetary sanctions have been imposed. Without admitting or denying the allegations, Arnholt consented to the described sanction and to the entry of findings that he engaged in outside business activities and failed to provide prompt written notice to his member firm.

Arnholt's suspension began September 16, 2002, and will conclude March 15, 2003. (NASD Case #C8A020059)

Connie Jenkins Baker (CRD #4347863, Associated Person, Villa Rica, Georgia) submitted an Offer of Settlement in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Baker consented to the described sanctions and to the entry of findings that she willfully failed to disclose material facts on a Form U-4. The findings also stated that Baker failed to respond timely to NASD requests for documents and information.

Baker's suspension began September 16, 2002, and will conclude March 15, 2003. (NASD Case #C07020048)

Rebecca Susan Barnard (CRD #1342721, Registered Representative, Tucson, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Barnard consented to the described sanction and to the entry of findings that she obtained \$566,000 by borrowing funds against insurance policies in the name of another person and retaining such funds for her personal benefit. (NASD Case #C3A020045)

Jordan Robert Belkin (CRD #2955234, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for nine months and required to requalify by exam as a general securities representative. In light of the bankruptcy filing, no monetary sanction has been imposed. Without admitting or denying the allegations, Belkin consented to the described sanctions and to the entry of findings that he engaged in a pattern of unsuitable mutual fund recommendations to public customers. NASD found that Belkin failed to ensure that his customers obtained the benefit of breakpoints, mutual fund promotions, and rights of accumulations to lower transaction costs; engaged in unsuitable switching by failing to utilize free exchanges; and engaged in unsuitable short-term trading in customer accounts. The findings also stated that Belkin failed to disclose to certain customers cost-savings available through letters of intent, breakpoints, and rights of accumulation. NASD determined that as a result of Belkin's recommendations, the customers incurred unnecessary charges totaling \$35,000, while Belkin generated an additional \$20,000 in commissions for himself.

Belkin's suspension began September 16, 2002, and will conclude June 15, 2003. (NASD Case #C9B020054)

Gary Wilson Brown (CRD #1923682, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Brown reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he solicited a \$15,000 loan from a public customer and entered into a written loan agreement with the customer without having a reasonable basis for believing that he could repay the loan pursuant to the terms of the loan agreement. The findings also stated that Brown completed a form entitled "Annual Regulatory Field Instruction" wherein he represented to his member firm that he had not borrowed money from a customer, but such representation was false.

Brown's suspension began September 16, 2002, and will conclude at the close of business September 15, 2004. (NASD Case #C05020041)

David Richard Carey (CRD #2077949, Registered Principal, Oglesby, Illinois) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Carey consented to the described sanction and to the entry of findings that he received \$5,700 from public customers to purchase shares of a fund for custodial securities accounts. NASD found that Carey failed to follow the customers' instructions and used the funds for some purpose other than the benefit of the custodial customers. The findings also stated that Carey failed to respond fully to NASD requests for documents and information. (NASD Case #C8A020024)

Cathy Lynn Cerullo (CRD #1923993, Registered Representative, Tampa, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Cerullo forged the signature of a public customer in order to effect the unauthorized disbursement of the customer's variable annuity account and failed to respond to NASD requests for information. The findings also stated that Cerullo engaged in the unauthorized disbursement of the account of a public customer by submitting a request to her member firm to close a customer's annuity account and disburse the funds to the customer, without the consent of the customer. NASD found that the customer negotiated the check and sent a new check to Cerullo who used the funds to open a new mutual fund IRA account for the customer rather than restoring the original account, thereby receiving \$13,986.07 in commissions, but causing the customer to lose the annuity benefits associated with his original annuity and to be subject to a new contingent deferred sales charge. (NASD Case #C07020010)

Fanglun Michael Chai (CRD #3093902, Registered Representative, Bronx, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Chai made unsuitable recommendations to a public customer and engaged in excessive trading in the customer's account based on the customer's financial situation. The findings also stated that Chai executed discretionary transactions in the account of a public customer without obtaining the customer's written authorization or his member firm's written acceptance of the account as discretionary. (NASD Case #C10020010)

Yenden Ann Chan (CRD #2237797, Registered Representative, Potomac, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chan consented to the described sanction and to the entry of findings that she failed to respond to an NASD request to testify. (NASD Case #C9A020037)

Lawrence Paul Chielli (CRD #2835012, Registered Representative, Middletown, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chielli consented to the described sanction and to the entry of findings that he received a \$2,000 check from a public customer with instructions to purchase various shares of a common stock, and subsequently, the customer instructed Chielli to sell such shares. The findings stated that Chielli misrepresented to the customer that he had effected such transactions, although he was aware that no such transactions had ever occurred. In furtherance of the foregoing misrepresentations, Chielli provided the customer with fictitious account statements that reflected transactions that had never occurred. Subsequently, when the customer requested that some of the profits be forwarded to him, Chielli sold shares of a mutual fund that the customer owned without the customer's prior knowledge, authorization, or consent. In addition, NASD found that Chielli failed to respond to NASD requests for information. (NASD Case #C9B020059)

Ronald Jay Clifton (CRD #1637760, Registered Principal, Odessa, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Clifton consented to the described sanction and to the entry of findings that he participated in a private securities transaction without providing prior notice, written or otherwise, to his member firm, and that he did not notify his member firm whether he had received, or might receive, selling compensation in connection with this transaction. The findings also stated that Clifton failed to respond to NASD requests for information and to appear for testimony. (NASD Case #C06020009)

Ted Frederick Cook (CRD #852995, Registered Representative, Buffalo, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Cook received a \$7,000 check from an insurance customer for the purchase of a long-term care insurance policy and converted the funds for his own purposes. The findings also stated that Cook failed to respond to NASD requests for information. (NASD Case #C8B020010)

Michael Coyle (CRD #2728846, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Coyle consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Coyle's suspension began September 3, 2002, and will conclude March 2, 2003. (NASD Case #C10020078)

Cornelius L. Cu (CRD #2639850, Registered Principal, Hillsborough, California) was barred from association with any NASD member in any capacity. The sanction is based on findings that Cu failed to respond to NASD requests for information. NASD also found that Cu opened a joint securities account, failed to provide written notice to his member firm of the existence of an account at another member firm, and failed to provide written notice to the other member firm of his registration with a member firm. The findings also stated that Cu purchased shares of an initial public offering (IPO) that traded at a premium in the secondary market and was considered a "hot issue" in violation of the Free-Riding and Withholding Interpretation. (NASD Case #C10020028)

Gary Lewis Davis (CRD #2547665, Registered Representative, Bella Vista, Arkansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Davis consented to the described sanctions and to the entry of findings that he maintained an account with a member firm over which he had discretionary authority without providing written notification to his member firm.

Davis' suspension began October 7, 2002, and concluded at the close of business October 11, 2002. (NASD Case #C05020043)

Robert Andrew DiCarlo, Jr. (CRD #2837475, Registered Representative, Boca Raton, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that DiCarlo failed to respond to NASD requests for information. The findings also stated that DiCarlo executed trades in the accounts of public customers without obtaining authorization from the customers. (NASD Case #C07020012)

Alfred Ward Dietrich (CRD #2137806, Registered Representative, Tampa, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dietrich consented to the described sanction and to the entry of findings that he forged the signature of a public customer on documents. (NASD Case #C07020057)

Richard E. Dirickson, Jr. (CRD #68537, Registered Representative, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Dirickson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dirickson consented to the described sanctions and to the entry of findings that he executed transactions in a security, at or near the close of the market, for the purpose of affecting the reported closing last-sale price in the security.

Dirickson's suspension began September 16, 2002, and will conclude at the close of business October 15, 2002. (NASD Case #CMS020145)

Edward Allan Fennell (CRD #3126627, Registered Representative, Dublin, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Fennell received \$4,901.53 from public customers for the purchase of a variable annuity and a mutual fund, failed to use the funds as directed, and, instead, used the funds for his own benefit. The findings also stated that Fennell failed to respond to NASD requests for information. (NASD Case #C8B020009)

Demetrius Donnell Ford (CRD #2540188, Registered Principal, Margate, Florida) submitted an Offer of Settlement in which she was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, suspended from association with any NASD member in all principal capacities for one year, and ordered to requalify by exam prior to being registered in any principal capacity. The fine must be paid immediately upon reassociation with a member firm following the 30-day suspension in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ford consented to the described sanctions and to the entry of findings that she supervised the sales force of her member firm in connection with private placement offerings, and distributed lead cards to the firm's representatives to enable them to sell the offerings in general solicitation although it was prohibited in the offerings. The findings stated that Ford failed to supervise the firm's representatives with a view to preventing violations of Section 5 of the Securities Act of 1933.

Ford's suspension in any capacity began September 16, 2002, and will conclude at the close of business October 15, 2002. Ford's suspension in any principal capacity began September 16, 2002, and will conclude at the close of business September 15, 2003. (NASD Case #C07020044)

Wanda Teresa Foster (CRD #2261834, Registered Supervisor, Tacoma, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Foster consented to the described sanction and to the entry of findings that she received customer checks sent to her member firm for deposit to their brokerage accounts, deposited the checks in the firm's bank account, and failed to credit the appropriate amounts to the customers' accounts. The findings also stated that Foster diverted a portion of the customers' funds into her own account at the firm, thereby converting the customers' funds to her own use and benefit, without the customers' knowledge, authorization, or consent. (NASD Case #C3B020016)

Brian Abraham Fried (CRD #2659427, Registered Representative, Smithtown, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fried consented to the described sanctions and to the entry of findings that he exercised discretionary authority in the joint account of public customers without obtaining their prior written authorization and without his member firm's prior written acceptance of the account as discretionary. The findings also stated that Fried prepared a letter and submitted it to his member firm that requested an address change for a public customer that the customer did not authorize, sign or authorize Fried to sign on his behalf. In addition, the findings stated that Fried forged the customer's signature on the letter, provided the falsified letter to his member firm, and had the customer's account documentation forwarded to a post office box without the customer's knowledge, authorization, or consent. NASD also found that Fried failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10020066)

Jianqiang Jeffrey Fu (CRD #3190303, Registered Representative, Silver Spring, Maryland) was barred from association with any NASD member in any capacity. The sanction was based on findings that Fu altered a monthly accounting statement of a public customer by changing the account number, tax ID number, name, and address to reflect his own account number, tax ID number, name, and address, and submitted the altered statement to a bank in connection with a personal loan application. The findings also stated that Fu failed to respond to NASD requests for information. (NASD Case #C07020008)

Peter Jonathan Glaser (CRD #2504182, Registered Representative, Halandale, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$21,400, plus interest, in restitution to public customers. Restitution must be paid before Glaser requests any relief from any statutory disqualification. Without admitting or denying the allegations, Glaser consented to the described sanctions and to the entry of findings that, in connection with solicitations to public customers, he intentionally and/or recklessly made representations that were material, false, and made without any reasonable basis. The findings also stated that Glaser effected securities transactions away from his member firm and failed to provide written notification to, or obtain written approval from, his member firm. (NASD Case #C10020080)

Dale Edward Groce (CRD #2869325, Registered Representative, Glenshaw, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500, suspended from association with any NASD member in any capacity for 10 business days, and required to pay \$18,800 in disgorgement of commissions. Groce also will attend sales practice training. Without admitting or denying the allegations, Groce consented to the described sanctions and to the entry of

findings that he made unsuitable mutual fund recommendations to his member firm's customers. NASD found that Groce recommended that customers switch from Class A to Class B shares in different fund families. The findings stated that these recommendations were unsuitable because there were funds within the family of funds that were sold with investment objectives and holdings comparable to the funds that were purchased. As a result, customers could have taken advantage of "free exchanges" within their existing funds at no additional cost. Instead, the customers incurred higher fees and a contingent deferred sales charge period, while Groce received a full commission on each new purchase. In addition, NASD found that Groce also failed to take advantage of a promotion by one mutual fund family that was offering discounted sales charges and lower contingent deferred sales charges on certain shares, and received additional commissions through the unsuitable recommendations.

Groce's suspension began September 16, 2002, and concluded at the close of business September 27, 2002. (NASD Case #C9B020056)

William Augusta Hardy (CRD #1283999, Registered Representative, Delaware, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hardy consented to the described sanction and to the entry of findings that he engaged in private securities transactions away from his member firm, and failed to provide his firm with detailed written notice of the transactions and his role therein and to receive permission from the firm to engage in the transactions. (NASD Case #C8B020017)

Jeffrey Joseph Hiser (CRD #2750883, Registered Principal, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from acting as a financial and operations principal with any NASD member for nine months, and required to requalify by examination as a financial and operations principal. In light of the financial status of Hiser, the fine imposed is \$10,000. Without admitting or denying the allegations, Hiser consented to the described sanctions and to the entry of findings that acting on behalf of a member firm, he used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities when they failed to maintain the minimum required net capital. The findings stated that Hiser, acting on behalf of a member firm, prepared inaccurate trial balances and net capital computations. NASD also found that Hiser, acting on behalf of a member firm, filed NASD FOCUS Part IIA reports, which were inaccurate in that, among other things, the reports overstated the firm's net capital.

Hiser's suspension began October 7, 2002, and will conclude July 6, 2003. (NASD Case #C8A020058)

Sarah Jean Howard (CRD #2468812, Registered Representative, Detroit, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Howard consented to the described sanction and to the entry of findings that she willfully failed to disclose material facts on a Form U-4. **(NASD Case #C8A020055)**

James Calvin Hulsey, III (CRD #1401945, Registered Representative, Tuscaloosa, Alabama) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hulsey consented to the described sanction and to the entry of findings that he executed unauthorized stock transactions in the accounts of public customers without the customers' knowledge or consent. The findings also stated that Hulsey failed to respond to NASD requests for information. **(NASD Case #C05020040)**

Darryl Spencer Johnson (CRD #4308064, Registered Representative, Prairie View, Texas) was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 business days. The sanctions were based on findings that Johnson failed to disclose a material fact on his Form U-4.

Johnson's suspension began August 19, 2002, and concluded at the close of business September 30, 2002. **(NASD Case #C05020009)**

Howard Michael Johnson (CRD #1353976, Registered Representative, Philomath, Oregon) was barred from association with any NASD members in any capacity. The sanction was based on findings that, at Johnson's request, a public customer wrote checks on his account totaling approximately \$130,000 to third parties designated by Johnson, including relatives, other customers that had loaned money to Johnson, and other creditors. The findings also stated that Johnson forged the signature of a public customer on letters of authorization submitted to his member firm that purportedly authorized his firm to transfer funds totaling approximately \$150,000 from the customer's account to the account of another public customer. In addition, NASD found that Johnson failed to respond to NASD requests for information. **(NASD Case #C3B020008)**

Phung M. Le (CRD #3274440, Registered Representative, Springfield, Massachusetts) was barred from association with any NASD member in any capacity. The sanction was based on findings that Le forged public customers' signatures on traditional life insurance death benefit checks and deposited the checks into bank accounts for his own use and benefit. **(NASD Case #C11020011)**

Lawrence Ronald Legind (CRD #2830571, Registered Representative, Corona Del Mar, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Legind engaged in private securities transactions and failed to provide prior written notice to, and receive written permission from, his member firm. The findings also stated that Legind guaranteed customers against loss. **(NASD Case #C02010062)**

Alfred Milton Lemcke, III (CRD #2404501, Registered Representative, Hingham, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$775,000, plus interest, in restitution to public customers. The restitution amount must be paid before Lemcke reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lemcke consented to the described sanctions and to the entry of findings that he received \$775,000 from public customers, which, without their knowledge or consent, he misappropriated for his own use and benefit. The findings stated that Lemcke obtained the aforementioned customers' funds by falsely representing to customers that he would invest their money in various stocks, mutual funds, and other securities through a purported financial services company, and subsequently provided the customers with periodic false statements reflecting that their investments were generating substantial returns. **(NASD Case #C11020034)**

George Michael Loughry (CRD #1241921, Registered Representative, Greensburg, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500, suspended from association with any NASD member in any capacity for 10 business days, and required to disgorge \$4,250 in commissions received. In addition, Loughry will attend sales practice training with an emphasis on mutual fund issues. The fine must be paid before Loughry reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Loughry consented to the described sanctions and to the entry of findings that he made unsuitable mutual fund recommendations to his member firm's customers. NASD found that Loughry recommended that customers switch from Class A shares to Class B shares in different fund families. NASD determined that these recommendations were unsuitable because there were funds within a family of funds that were sold with investment objectives and holdings comparable to the funds that were purchased. The findings stated that, as a result, the customers could have taken advantage of "free exchanges" within their existing funds at no additional cost; instead, the customers incurred higher fees and a contingent deferred sales charge period while Loughry received a full commission.

Loughry's suspension began September 16, 2002, and concluded at the close of business September 27, 2002. **(NASD Case #C9B020055)**

Reza H. Mahini (CRD #2040798, Registered Representative, Bell Canyon, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mahini consented to the described sanction and to the entry of findings that he obtained possession of \$581,734.66 in checks payable to a public customer and, without the customer's approval, knowledge, or consent, forged the customer's signature endorsement to each check and deposited the same into his own personal bank account, thereby converting the funds to his own use and benefit. **(NASD Case #C02020042)**

Todd Andrew Marley (CRD #2392933, Registered Representative, Lawrence, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Marley consented to the described sanction and to the entry of findings that he engaged in securities transactions outside the normal course or scope of his association with his member firm and failed to provide prior written notice to his member firm.

Marley's suspension began October 7, 2002, and will conclude at the close of business January 6, 2003. **(NASD Case #C9A020038)**

Paulette Marlene McDermott (CRD #2410863, Registered Representative, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McDermott consented to the described sanction and to the entry of findings that she signed the names of members of the public to life insurance policy change application forms without their knowledge or consent. **(NASD Case #C8B020016)**

Robin Bruce McNabb (CRD #1016598, Registered Principal, San Jose, California) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The United States Court of Appeals affirmed the sanctions following appeal of an October 2000 SEC decision. The sanctions were based on findings that McNabb participated in private securities transactions without giving prior written notification to his member firm. In addition, McNabb recommended to public customers the purchase of securities without having reasonable grounds for believing that the investments were suitable for the customers in light of the facts disclosed by the customers as to their other securities holdings, financial situation, and needs. **(NASD Case #C01970021)**

Richard Joseph Monello (CRD #1644006, Registered Principal, Irving, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association in a principal or supervisory capacity for two weeks. Without admitting or denying the allegations, Monello consented to the described sanction and to the entry of findings

that, as the direct supervisor of a branch office of a member firm, he failed to supervise a representative with regard to materials posted on Web sites, and failed to approve, before use, the material posted on the Web sites.

Monello's suspension began October 7, 2002, and will conclude October 20, 2002. **(NASD Case #CAF020031)**

Louis Michael Montaino (CRD #2570300, Registered Representative, Middle Village, New York) and Michael Robert Marcus (CRD #2291751, Brooklyn, New York) submitted an Offer of Settlement in which Marcus was fined \$20,000 and suspended from association with any NASD member in any capacity for eight months. Montaino was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange, knowingly or recklessly employed manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities; knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances; or made untrue statements of material fact and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

The findings also stated that Marcus arranged for his girlfriend to purchase shares of stock for her account at a steep discount to the prevailing market price, began placing day limit purchase orders for shares of stock with a market maker to create the appearance of interest and activity in the stock, and placed all stock purchased into the firm's proprietary account. NASD also found that Marcus knew he was participating in the manipulation of the stock; knew, or was reckless in not knowing, that the inside bid was increasing during the time he placed his limit orders; and knew that the market maker with whom he was placing the limit orders held the inside bid most of the time and that there was virtually no volume passing over the ticker in this security other than that created by the limit orders. In addition, NASD found that Montaino and another broker with whom he shared a registered representative number solicited public customers to purchase the stock, failed to disclose material risks, and fraudulently misled investors in connection with their decision to purchase and sell the common stock. Furthermore, the findings stated that Montaino solicited and obtained customer orders for purchases of the stock and held the orders for execution without authorization from the customers until Marcus filled the orders with shares held in inventory by their member firm, thereby realizing approximately \$1,900,000 in illicit profits for the firm. Moreover the findings stated that Marcus sold the shares of stock in his girlfriend's account, realizing approximately \$29,000 in illicit profits for the account.

Montaino's suspension began September 16, 2002, and will conclude March 15, 2003. Marcus' suspension began September 16, 2002, and will conclude at the close of business May 15, 2003. (NASD Case #CAF010025)

James Brian Moran (CRD #1180416, Registered Representative, Basking Ridge, New Jersey) was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Moran engaged in outside business activity without providing his member firm with prompt written notice.

Moran's suspension began September 16, 2002, and concluded at the close of business September 27, 2002. (NASD Case #C9B010041)

Martin P. O'Malley (CRD #4417124, Registered Representative, Fitchburg, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before O'Malley reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, O'Malley consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

O'Malley's suspension began September 16, 2002, and will conclude December 15, 2002. (NASD Case #C11020033)

Alexander Osterneck (CRD #1663321, Registered Representative, Palm Beach, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Osterneck failed to respond timely to NASD requests for information and to appear for an on-the-record interview. (NASD Case #C9A010006)

Jonathan Goodwin Page (CRD #1054190, Registered Representative, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Page consented to the described sanction and to the entry of findings that he engaged in outside business activities without providing written notice to, and obtaining proper approval from, his member firm. (NASD Case #C05020045)

Peter Faris Peck (CRD #1019018, Registered Representative, Heyworth, Illinois) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and required to offer, in restitution to a public customer, to repurchase the customer's membership interest in the amount of \$25,000. Without admitting or denying the allegations, Peck consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed and neglected to provide prompt written

notice to his member firm. The findings stated that Peck participated in private securities transactions, and failed and neglected to provide prior written notice to, and obtain prior written authorization from, his member firm to engage in such transactions. NASD also found that Peck, by the use of instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud public customers and engaged in a course of business that operated as a fraud or deceit upon the customers by making untrue statements of material facts and/or omitting to state material facts necessary to make untrue statements made in light of the circumstances in which they were made not misleading, in connection with the purchase of a security that he sold to customers. In addition, the findings stated that Peck wrote, or caused to be issued checks totaling \$68,100 from the bank account of a company, deposited the checks into his personal bank account, and converted the funds for his own use and benefit without the knowledge or consent of the company. Furthermore, NASD found that Peck, without prior notice to his member firm, accepted \$14,349 in funds from public customers to be invested but instead used such funds to purchase shares of stock for his own personal securities account maintained at his member firm, thereby converting the funds to his own use and benefit, and failed to respond to NASD requests for information. (NASD Case #C04020010)

Bill Plakos a/k/a William Plagianakos (CRD #3221829, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Plakos reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Plakos consented to the described sanctions and to the entry of findings that he effected transactions in the account of a public customer without obtaining prior written authorization from the customer to exercise discretion or without having the account accepted in writing as a discretionary account by his member firm.

Plakos' suspension began October 7, 2002, and will conclude at the close of business October 18, 2002. (NASD Case #C10020086)

Todd Michael Rome (CRD #2082803, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rome consented to the described sanction and to the entry of findings that acting on behalf of his member firm, he employed a statutorily disqualified person in various capacities and after being informed by NASD of the person's disqualification, entered into a Consulting Agreement with the person knowing that the person was a statutorily disqualified person. The findings stated that Rome, acting on

behalf of his member firm, permitted an unregistered individual to be employed in capacities and perform functions that required registration with NASD. In addition, NASD found that Rome, in the exercise of reasonable supervision, failed to take appropriate steps to detect and prevent the conduct of registered representatives concerning customer claims and/or complaints alleging unauthorized transactions. **(NASD Case #C04020029)**

Stanley Lynn Scanlon (CRD #1171669, Registered Representative, Edinboro, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Scanlon consented to the described sanction and to the entry of findings that he engaged in securities transactions outside the scope of his employment with his member firm and failed to provide his member firm with prior written notice of his participation in the transactions. The findings also stated that Scanlon failed to respond, and to respond timely and completely, to NASD requests for information and documents. **(NASD Case #C9A020036)**

Daniel Richard Schmidt (CRD #2652062, Registered Representative, Newport Beach, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schmidt consented to the described sanction and to the entry of findings that he signed public customers' names to Contribution Change Forms (CCFs) without their authorization, knowledge, or consent, and submitted them to his member firm requesting an increase in the customers' monthly payroll deductions for which he received \$520 in commission advances. The proposed payroll deduction increases were not effectuated because Schmidt failed to submit salary reduction agreements (SRAs) along with the forged CCFs. **(NASD Case #C02020030)**

Trevor Douglas Seffren (CRD #2410677, Registered Representative, Aventura, Florida) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam as a general securities representative prior to acting in any capacity requiring that registration. The fine must be paid before Seffren reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Seffren consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information.

Seffren's suspension began August 6, 2001, and concluded at the close of business August 5, 2002. **(NASD Case #C07010005)**

Patricia Ann Schaffer (CRD #3171723, Registered Representative, Middletown, Delaware) submitted a Letter

of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schaffer consented to the described sanction and to the entry of findings that, while working as a teller with an affiliate bank of her member firm, she issued a \$1,500 cashier's check payable to herself without providing funds to pay for the check. The findings also stated that to later fund the check, Schaffer withdrew \$1,500 from a public customer's bank account without the customer's authorization or consent. **(NASD Case #C9A020040)**

Michelle Stephanie Sias (CRD #1214291, Registered Representative, Ft. Lauderdale, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sias consented to the described sanction and to the entry of findings that, in response to a public customer who had demanded the cancellation of an allegedly unauthorized trade, she falsified an internal memorandum, a computer printout, and a customer account statement and provided them to the customer to create the appearance that the trade had been canceled when in fact it had not been canceled. **(NASD Case #C07020069)**

VictoriaAnn Sperbeck (CRD #1413447, Registered Principal, Stockton, California) was barred from association with any NASD member in any capacity for failure to respond to NASD requests for information. Sperbeck also failed to disclose material information on an amended Form U-4. **(NASD Case #C01020008)**

Scott Donald Sprandel (CRD #2291857, Registered Representative, Flossmoor, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Sprandel consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in the securities accounts of public customers and exercised discretionary power in the accounts without prior written authorization from the customers or acceptance in writing by his member firm of the account as discretionary.

Sprandel's suspension began September 16, 2002, and concluded at the close of business September 20, 2002. **(NASD Case #C8A020051)**

Jason Blaine Stevens (CRD #2802938, Registered Representative, Scottsdale, Arizona) was fined \$25,000 and suspended from association with any NASD member in any capacity for six months. The sanctions were based on findings that Stevens made unsuitable recommendations to public customers. The findings also stated that Stevens made baseless price predictions regarding a speculative security to public

customers without any reasonable basis for the predictions, and made material omissions of fact in his recommendations of securities to public customers.

Stevens' suspension began September 16, 2002, and will conclude March 16, 2003. (NASD Case #C3A010039)

Douglas Lumir Stolba (CRD #1153617, Registered Representative, Plymouth, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stolba consented to the described sanction and to the entry of findings that he received \$100,685.55 from public customers to be invested, but instead, without the knowledge or consent of the customers, deposited the funds into his personal bank account for his own personal use and benefit. (NASD Case #C04020031)

Lisa June Strong (CRD #1837281, Registered Principal, Peoria, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and barred from association with any NASD member in any principal or managerial capacity. In light of the financial status of Strong, a \$5,000 fine was imposed. The fine must be paid upon reassociation with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Strong consented to the described sanctions and to the entry of findings that a member firm, acting through Strong, received notice of customer complaints or arbitration proceedings against registered representatives, sanctions imposed by NASD against representatives, the suspension of a representative, and the settlement of arbitration proceedings against representatives, and failed to cause amendments to be filed to Forms U-5 and U-4 on behalf of the representatives after learning of the reportable events and facts and circumstances giving rise to the requirement to amend. The findings also stated that a member firm, acting through Strong, received notice of disciplinary actions taken by NASD against registered representatives and settlements of arbitration claims against representatives and the firm and failed to report such incidents to NASD after becoming aware of the incidents. (NASD Case #C8A020056)

Christopher Allen Wagner (CRD #3081539, Registered Representative, Belleville, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 15 business days. The fine must be paid before Wagner reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wagner consented to the described sanctions and to the entry of findings that he failed to disclose information on his Form U-4.

Wagner's suspension began October 7, 2002, and will conclude at the close of business October 25, 2002. (NASD Case #C8A020033)

Craig Frank Wisbiski (CRD #2711742, Registered Supervisor, Williamston, Michigan) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wisbiski consented to the described sanctions and to the entry of findings that he caused \$169,970 to be withdrawn from the securities account of a public customer, deposited the funds into his own securities account without the customer's knowledge or consent, and used the funds for his own personal benefit or for some purpose other than the benefit of the customer. The findings also stated that Wisbiski induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances by inducing public customers to invest funds which he represented would be placed with a "private investment group" and earn 15 percent tax-free annual interest, when, in fact, said investment was nonexistent and Wisbiski used the customer funds for his own purposes. (NASD Case #C8A020036)

Individual Fined

Charles Francis Kirby (CRD #863916, Registered Principal, Littleton, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$7,500, jointly and severally. Kirby was also fined \$5,000 individually. Without admitting or denying the allegations, Kirby consented to the described sanctions and to the entry of findings that order tickets executed by his member firm contained an order execution time that was subsequent to the respective trade report, an order entry time that was subsequent to the related trade report, and illegible time stamps making it impossible to determine when the order was received and executed. The findings also stated that Kirby failed to enforce his member firm's supervisory procedures thereby causing order ticket violations. (NASD Case #C3A020043)

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 September 6, 2002. 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*.

Luis Guillermo Sarmiento (CRD #828824, Registered Principal, Miami, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Sarmiento acted as an imposter and took the Series 7 and Series 24 qualification exams for his employer.

Sarmiento has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C07010091)

U.S. Rica Financial, Inc. (CRD #38742, San Jose, California) and Vinh Huu Nguyen (CRD #2374393, Registered Principal, San Jose, California) were fined \$133,579.83 jointly and severally, the firm was expelled from NASD membership, and Nguyen was barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Nguyen, represented to customers on the firm's Web site and on trade confirmations that they would be, or had been, charged commissions in accordance with the firm's published commissions schedule, or that trades would be, or had been, effected for "free," when in fact the firm effected customer trades on a riskless principal basis through the firm's proprietary account and charged the customers undisclosed markups and markdowns, thereby earning and retaining "secret profits" of \$58,579.83 as well as commissions on these trades. In addition, the firm, acting through Nguyen, failed to make appropriate memoranda of brokerage orders reflecting time of entry and time of execution of purchases of securities from other broker/dealers into the firm's inventory account and sales of securities to other broker/dealers from the firm's inventory account.

The firm and Nguyen have appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C01000003)

Complaints Filed

The following complaints were issued by NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by 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.

Salvatore Clark (CRD #2580477, Registered Representative, Deer Park, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. (NASD Case #C3A020039)

Joseph Alphonso Engerman, Jr. (CRD #2707877, Registered Representative, Upper Marlboro, Maryland) was named as a respondent in an NASD complaint alleging that he received a \$25,000 check from a public customer to establish a securities trading account and to purchase a money market fund and/or municipal securities fund, deposited the check into a business checking account registered in his name, caused \$10,000 to be deposited in a securities account in the name of the customer, and converted the balance to his own use and purposes. The complaint also alleges that Engerman provided the customer with a statement that falsely listed a municipal securities fund and a money market fund as positions in the customer's securities account when, in fact, no such securities had been

purchased. In addition, the complaint alleges that Engerman received \$64,850 from a public customer for investment purposes in conformity with a recommended asset plan developed for the customer by Engerman to invest her monies in a variety of types of securities, but he retained the funds and converted them to his own use and purposes by failing to apply them to the intended investment purposes. Furthermore, the complaint alleges that Engerman failed to respond to NASD requests for information and documents. (NASD Case #C9A020039)

Connie Fox, Jr. (CRD #1843462, Registered Representative, Navasota, Texas) was named as a respondent in an NASD complaint alleging that he received a \$3,000 check from a public customer for investment purchases and, instead, deposited the check into a bank account he controlled, withdrew the \$3,000 from his bank account, and used these funds together with other funds to purchase a Certificate of Deposit in his own name, thereby converting the customer's funds to his own use and benefit without the customer's authorization, knowledge, or consent. The complaint also alleges that Fox failed to respond to NASD requests for information. (NASD Case #C06020011)

J. Craig Hili (CRD #2531966, Registered Representative, Miami Beach, Florida) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. (NASD Case #C3A020040)

Amy Lynn Martin (CRD #3204695, Registered Principal, Memphis, Tennessee) was named as a respondent in an NASD complaint alleging that she transferred \$128,000 from the accounts of public customers to the checking account of another public customer for a purpose not directed by the customers and without their knowledge or consent. (NASD Case #C05020018)

Stephen Nicholas McConnell (CRD #2689307, Registered Representative, West Orange, New Jersey) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The complaint also alleges that McConnell maintained a joint securities account at his member firm, purchased and sold various option contracts in the account, and failed to have sufficient funds in the account to cover the cost of options exercised on McConnell's behalf in the account by his member firm. In addition, the complaint alleges that McConnell's failure to deposit cash or securities against the unsecured debit balance in his account willfully caused his member firm to make an extension of credit to him in violation of Regulation T promulgated by the Board of Governors of the Federal Reserve System. The complaint further alleges that McConnell failed to respond to NASD requests for information and documents. (NASD Case #C10020082)

Samuel Earl Miller, II (CRD #2479590, Registered Representative, Louisville, Kentucky) was named as a respondent in an NASD complaint alleging that he received \$1,000 in cash from a public customer to be invested, failed and neglected to remit these funds to his member firm, and failed to invest the funds as directed by the customer. The complaint also alleges that Miller created and sent to a public customer a false account statement reflecting a fictitious mutual fund purchase and failed to respond to NASD requests for information. (NASD Case #C05020042)

Adam Mosslih (CRD #2601978, Registered Representative, Syosset, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. (NASD Case #C3A020041)

Vincent Ribortone (CRD #2614091, Registered Representative, Freeport, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. The complaint also alleges that Ribortone made baseless price predictions concerning the future performance of a stock. (NASD Case #C3A020044)

Robby Don Schumacher (CRD #2714791, Registered Representative, East Islip, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. (NASD Case #C3A020038)

Joseph Brian Shevlin, Jr. (CRD #2125060, Registered Representative, Bayonne, New Jersey) was named as a respondent in an NASD complaint alleging that, in connection with the sale of common stock to retail customers, Shevlin, by the use of the instrumentalities of interstate commerce or of the mails, knowingly or recklessly made material misrepresentations and omitted to state material facts; effected transactions in, or induced the purchase or sale of, securities by means of a manipulative, deceptive, or fraudulent device. The complaint also alleges that Shevlin solicited public customers to purchase common stock and made baseless and improper price predictions. In addition, the complaint alleges that Shevlin purchased securities in the accounts of public customers without the customers' written or oral authorization. (NASD Case #C10020075)

Gregory James Toth (CRD #2620359, Registered Representative, White Plains, New York) was named as a respondent in an NASD complaint alleging that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and misrepresentations of fact to customers and potential customers in connection with the solicitation of orders to purchase a common stock. (NASD Case #C07020067)

Colin Eric Whittle (CRD #3131319, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he effected transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Whittle failed to respond to NASD requests for information and documents. (NASD Case #C10020085)

Kevin Dacosta Worrell (CRD #2884901, Registered Representative, Queens Village, New York) was named as a respondent in an NASD complaint alleging that he engaged in an unauthorized transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent. (NASD Case #C10020074)

Firm Suspended for Failure to Supply Financial Information

The following firm was suspended from membership in NASD for failure to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension 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.

Russo Securities, Inc.
Staten Island, New York
(September 4, 2002)

Suspensions Lifted

NASD has lifted the suspension from membership on the date shown for the following firms because they have complied with formal written requests to submit financial information.

Diamond Funding, LLC
Greenville, South Carolina
(August 13, 2002)

GFN.COM Securities, Inc.
New York, New York
(August 21, 2002)

Firm Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

The date the registration was suspended is included after the entry. If the firm has complied, the listing also includes the date the suspension was lifted.

Interacciones Global, Inc.
New York, New York
(August 20, 2002)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)

Ambrosio, Jeffrey M.
Cleveland, Ohio
(August 19, 2002)

Hengst, Allen L., a/k/a Scott J. McKay Wolas
Orlando, Florida
(August 12, 2002)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)

Allen, Terrisa Marie
Citrus Heights, California
(August 16, 2002)

Bagwill, Jeremy B.
New Port Richey, Florida
(August 15, 2002)

DeMuth, Jean L.
Harrisburg, Pennsylvania
(August 15, 2002)

Feldman, Wendy P.
Rancho Santa Fe, California
(August 22, 2002)

Fiesta, Lorenzo E.
Honolulu, Hawaii
(August 15, 2002)

Leone, Christopher M.
Coconut Creek, Florida
(September 4, 2002)

Luu, Trong H.
Santa Ana, California
(August 9, 2002)

Peterson, James
St. Louis, Missouri
(August 8, 2002)

Prentice, Edward E.
Sacramento, California
(September 4, 2002)

Rau, Neal F.
San Diego, California
(August 8, 2002)

Rice, Kenneth P.
San Jose, California
(August 16, 2002)

Subhan, Philip J.
Lawrenceville, New Jersey
(August 7, 2002)

Techera, Daniel M.
Miami, Florida
(August 8, 2002)

Walder, Hanspeter A.
Tarrytown, New York
(August 14, 2002)

Weigand, Dale
Florence, Kentucky
(August 27, 2002)

Weis, Andrew P.
Golden, Colorado
(August 1, 2002)

Individuals Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

The date the registration was suspended is included after the entry. If the individual has complied, the listing also includes the date the suspension was lifted.

Becker, Gregg Mathew
Hicksville, New York
(July 3, 2002)

John, Dexter Kirnon
Cambria Heights, New York
(August 28, 2002)

Leon, Howard
Dahrland, Florida
(August 15, 2002 – August 23, 2002)

Schiro, Patrick Morgan
Bayshore, New York
(August 26, 2002 – September 5, 2002)

NASD'S NAC Fines and Suspends Broker and Orders Restitution for Unsuitable Sales of Over \$2.1 Million of Class B Mutual Fund Shares

NASD's National Adjudicatory Council (NAC) upheld an NASD Hearing Panel's decision that Wendell D. Belden made unsuitable sales of Class B mutual fund shares. Belden is the sole owner of Southmark, Inc. based in Tulsa, OK. He was fined \$40,000, suspended in all capacities for one year, and ordered to pay restitution of \$55,567, plus interest. Belden was also ordered to requalify as a principal by examination and assessed costs of the proceeding.

The NAC determined that a registered representative's suitability obligation includes the requirement to minimize the sales charges paid for mutual fund shares, when consistent with the customer's investment objectives. In this case, the NAC found that the recommendations were unsuitable because the purchase of Class B shares instead of Class A shares of the same fund resulted in significantly higher commission costs, including the payment of a contingent deferred sales charge upon the sale of the shares.

Specifically, Belden recommended and sold more than \$2.1 million in Class B shares rather than A shares to his customer, a retired individual. While Class A shares typically involve a front-end sales charge, these fund shares incur lower ongoing charges and there is no contingent deferred sales charge upon the sale of the shares. Class B mutual fund shares generally do not incur a front-end sales charge, but are subject to higher ongoing charges and a contingent deferred sales charge upon the sale of shares. In this case, the customer purchased shares in two mutual fund families. The amount invested in one fund family was more than \$1 million dollars, which would have entitled the customer to purchase Class A shares with no front-end sales charge. The customer's investment in the second fund family was over \$800,000, which would have entitled the customer to receive the largest discount on the front-end sales charge offered by the fund.

The NAC stated that over an eight-year period the ongoing fund charges for Class B shares would have been 64 percent higher than the same charge for Class A shares. The NAC also found that Belden placed his customer in Class B shares to generate higher commissions for himself and explained that its finding was bolstered by Belden's statement that he could not stay in business if he had to rely on the lower commissions from the sale of Class A shares. In this case, Belden and his employer firm earned commissions on the sale of B shares of \$84,000. The commissions on the sale of A shares would have only been \$28,000.

Belden appealed a Nov. 12, 2001, hearing panel decision that imposed a 90-day suspension along with the monetary sanctions affirmed by the NAC. The NAC increased the suspension because "Belden intentionally favored his financial interest to the detriment of one customer." Belden has since appealed the NAC decision to the SEC, and the sanction is not in effect pending consideration of the appeal. (NASD Case #C05010012)