

Disciplinary Actions

REPORTED FOR JULY

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 June 2002.

Firm Expelled, Individual Sanctioned

Emerson Bennett & Associates, Inc. (CRD #36171, Fort Lauderdale, Florida) and Brently Chad Martin (CRD #2320760, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$45,000, jointly and severally. In addition, the firm was expelled from NASD membership and Martin was barred from association with any NASD member in any principal or supervisory capacity with a right to reapply after three years from the effective date of the bar. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Martin, failed to timely establish adequate written supervisory procedures for ensuring compliance with the NASD Taping Rule, and failed to begin taping telephone conversations between its registered representatives and existing and potential customers within 30 days of receiving notice. The findings also stated that the firm, acting through Martin, failed to begin taping telephone conversations at a branch office until about 5 1/2 months after receiving notice from NASD, and failed to tape telephone conversations at another branch office from September 30, 2000, through at least December 4, 2000. The findings also stated that the firm, acting through Martin, filed quarterly summary reports with NASD inaccurately reporting the extent to which the firm had taken disciplinary action against certain registered representatives, and was unable to produce certain specified telephone conversation tape recordings requested by the staff. NASD also found that Martin represented to members of NASD that the firm was in full compliance with the requirements of the Taping Rule when, in fact, he knew, or should have known, that a branch office of the firm had not been taped since at least September 30, 2000. In addition, the firm, acting through Martin, failed to take timely and appropriate action to address and prevent the recurrence of numerous continuous and ongoing instances of sales-practice abuses by the firm's registered representatives disclosed on the firm's tape recording of its registered representatives' phone conversations. (NASD Case #C07020043)

Firm Fined, Individual Sanctioned

SCA Development, Inc. (CRD #35451, Birmingham, Alabama), and Beall Dozier Gary Jr., (CRD #2754744, Registered Representative, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Gary was also suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with best efforts contingency offerings of securities, the firm, acting through Gary, failed to promptly transmit customer funds to an unaffiliated bank that had agreed to act as escrow agent, but instead held customers' uncashed checks for long periods of time prior to transmitting the checks to the bank.

Gary's suspension will begin August 5, 2002, and will conclude at the close of business August 14, 2002. (NASD Case #C05020022)

Firms and Individuals Fined

MMS Securities, Inc. (CRD #43120, Troy, Michigan), Craig Frank Moncher (CRD #1463324, Associated Person, Bloomfield Hills, Michigan), James Sylvester Currier (CRD #2070654, Registered Principal, Bloomfield Hills, Michigan), and Neal Appelbaum (CRD #2534089, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured. The firm, Moncher, and Currier were fined \$35,000, jointly and severally; the firm and Moncher were fined \$5,000, jointly and severally; and the firm and Currier were fined \$7,500, jointly and severally. Additionally, the firm and Appelbaum were fined \$40,000, jointly and severally, and the firm was fined \$2,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Appelbaum, failed to prepare and maintain an accurate and current general ledger, current trial balance sheet, income statement and stock record, and failed to prepare and maintain adequate supporting documentation to evidence compliance with SEC Rule 15c3-1.

The findings also stated that the firm, acting through Appelbaum, failed to evidence the accuracy of FOCUS Part IIA reports and failed to provide support evidencing the accuracy of the amount required to be deposited in its Special Reserve Bank account. NASD also found that the firm failed to establish, maintain, and enforce adequate written supervisory procedures designed to achieve compliance with applicable securities laws, regulations, and NASD rules with respect to the monitoring of customer stock positions, location of securities, and the identification and correction of security position differences. In

addition, NASD determined that the firm, acting through Currier, failed to timely report to NASD customer complaints, and the firm, acting through Moncher and Currier, permitted the distribution of sales literature that emphasized the advantages and savings of investing in a fractional share investment program but omitted material facts. The firm also allowed Moncher to act in a principal capacity without being properly registered with NASD. (NASD Case #C8A020030)

VMR Capital Markets US (CRD #38755, Los Angeles, California) and Todd Michael Ficeto (CRD #1927084, Registered Principal, Malibu, California) submitted a Letter of Acceptance, Waiver, and Consent in 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 Ficeto, failed to report customer complaints to NASD. The findings also stated that the firm permitted Ficeto to execute equity securities transactions without being properly registered with NASD. (NASD Case #C02020026)

William Scott & Co., L.L.C. (CRD #14979, Union, New Jersey) and Joseph William Glodek (CRD #223163, Registered Principal, Somerset, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which they were each censured and fined \$10,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Glodek, failed to establish, maintain, and enforce supervisory procedures reasonably designed to achieve compliance with NASD rules. The findings stated that the firm, acting through Glodek, failed to maintain certain correspondence and have it reviewed by a supervisory principal; failed to evidence in writing the review of its transactions by a supervisory principal; and failed to establish, maintain, and enforce adequate written supervisory procedures relating to NASD Conduct Rule 3070, trade reporting, and Continuing Education. Additionally, NASD found that the firm, acting through Glodek, failed to report customer complaints; failed to prepare and maintain an adequate Need Analysis and written training plan for the Firm Element of NASD's Continuing Education Program; and failed to provide Firm Element training to its covered persons. Moreover, NASD found that the firm, acting through Glodek, failed, within 90 seconds after execution, to transmit through the Automated Confirmation Transaction ServiceSM (ACTSM) last sale reports of transactions in over-the-counter (OTC) equity securities, and failed to designate through ACT such last sale reports as late and failed to show the correct time of execution on brokerage order memoranda. Furthermore, the findings stated that the firm, acting through Glodek, executed short sale transactions and failed to make an affirmative determination prior to executing such transactions, and executed short sale transactions and failed to make an affirmative determination prior to executing such transactions. (NASD Case #C9B020042)

Firms Fined

Beyer & Co. (CRD #1243, Davenport, Iowa) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it permitted registered representatives to conduct securities business and to act in a registered capacity when their registrations had lapsed for non-compliance with the Regulatory Element of the Continuing Education Requirements, and/or that the firm compensated the representatives for securities transactions while their registration was inactive as a result of not completing the Regulatory Element of the Continuing Education Requirement. (NASD Case #C04020015)

Brinson Advisors (CRD #583, Weehawken, New Jersey) 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 submit required information to the Order Audit Trail SystemSM (OATSSM). The findings also stated that the firm failed to follow its written supervisory procedures concerning OATS and thus failed to maintain a system reasonably designed to achieve compliance with Marketplace Rule 6955(a). (NASD Case #CMS020098)

GFI Securities LLC (CRD #19982, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in OTC Equity/Bulletin Board (OTC/OTCBB) securities; incorrectly reported to ACT last sale reports of transactions in OTC/OTCBB on an "as of" basis; and failed to designate through ACT last sale reports as late. The findings also stated that the firm incorrectly designated as ".SLD" through ACT last sale reports of transactions in OTC/OTCBB securities reported to ACT within 90 seconds of execution. (NASD Case #CMS020092)

Josephthal & Co., Inc. (CRD #3227, New York, New York) was censured and fined \$10,000. The NAC imposed the sanctions following appeal of an Officer of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm failed to comply with an arbitration panel's order to produce a document for the arbitration panel to review. (NASD Case #CAF000015)

Market Wise Securities, Inc. (CRD #45269, Broomfield, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions in Nasdaq National Market[®] (NNM[®])

securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. 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 short sales. (NASD Case #CMS020088)

Mesirow Financial, Inc. (CRD #2764, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise the firm's written supervisory procedures regarding firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders presented to the firm at its published bid or offer in an amount up to its published quotation size, thereby failing to honor its published quotation. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning firm quotations. (NASD Case #CMS020094)

MPAC Capital Partners, L.P. (CRD #39136, Sausalito, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in 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 for each 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 Case #CMS020087)

UBS Warburg LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$112,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it incorrectly designated as ".PRP" through ACT reports of transactions in NNM securities for which the execution price was not based on a prior reference point in time. The findings also stated that the firm failed to display immediately customer limit orders in Nasdaq securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer 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 for each 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, without making reasonable efforts to avoid a locked or crossed market, executed transactions with all market participants whose quotations

would be locked or crossed, and entered bid or ask quotations in Nasdaq securities for which it was a market maker that caused a locked or crossed market condition to occur. In addition, NASD determined that the firm locked/crossed the market during the pre-opening market period in Nasdaq securities for which it was a market maker; failed immediately to 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 through SelectNet with an aggregate size of at least 5,000 shares to all market participants whose quotes it locked/crossed. Moreover, NASD found that the firm was a party to a locked or crossed market condition in Nasdaq securities for which it was a market maker prior to the market opening, and received a Trade-or-Move Message through SelectNet. But, within 30 seconds of receiving such message, failed to fill the incoming 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. Furthermore, the findings stated that the firm was presented with orders at its published bid or offer in an amount up to its published quotation size, failed to execute the orders upon presentment, and thereby failed to honor its published quotation. (NASD Case #CMS020055)

Individuals Barred or Suspended

Steven Anthony Anello (CRD #2101112, Registered Principal, Portchester, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any principal or supervisory capacity with a right to reapply after three years, and suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Anello, no monetary sanctions have been imposed. Without admitting or denying the allegations, Anello consented to the described sanctions and to the entry of findings that he failed to reasonably supervise the registered representatives in his branch to detect and prevent the recurrence of continuous and ongoing sales practice abuses.

Anello's suspension began June 3, 2002, and concluded at the close of business July 2, 2002. (NASD Case #C07020042)

Dionne Maria Aubert (CRD #3197843, Registered Representative, New Orleans, Louisiana) 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, Aubert consented to the described sanction and to the entry of findings that she came into possession of \$5,792 from a bank affiliated with her member firm and converted the funds to her own use and benefit without the knowledge or consent of the customer or

the bank. The findings also stated that Aubert failed to respond to NASD requests for information. (NASD Case #C05020020)

William Hamilton Averill (CRD #1049192, Registered Representative, West Chester, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Averill reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Averill consented to the described sanctions and to the entry of findings that he sold viatical settlement contracts outside the scope of his employment with his member firm, for compensation, and failed to provide prompt written notice of the sales to his member firm.

Averill's suspension began June 3, 2002, and will conclude at the close of business August 2, 2002. (NASD Case #C9A020023)

Joseph John Azzata (CRD #2446677, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any principal or supervisory capacity for six months. Without admitting or denying the allegations, Azzata consented to the described sanctions and to the entry of findings that he failed to reasonably supervise the branch office of his member firm with respect to compliance with the requirements of NASD Rule 3010(b)(2), which relates to the taping of conversations between registered persons and existing and potential public customers.

Azzata's suspension began June 17, 2002, and will conclude at the close of business December 16, 2002. (NASD Case #C07020036)

George Fleischer Balmer (CRD #1046182, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member as a financial and operations principal for two years. Without admitting or denying the allegations, Balmer consented to the described sanctions and to the entry of findings that, acting on behalf of a member firm, he failed to compute accurately the amount required to be deposited into the firm's Special Reserve Bank Accounts for the Exclusive Benefit of Customers and, as a result, the firm had a deficiency in its accounts. NASD also found that Balmer, acting on behalf of a member firm, made numerous withdrawals from the firm's Reserve Bank Accounts, but failed to compute its reserve requirements prior to making such withdrawals.

Balmer's suspension began July 1, 2002, and will conclude at the close of business June 30, 2004. (NASD Case #C02020024)

Brian Coleman Barge (CRD #3243595, Registered Representative, Detroit, Michigan) was barred from association with any NASD member in any capacity. The sanction was based on findings that Barge received \$1,225 from public customers for investment purposes and failed to apply the funds as instructed, and, without the customers' knowledge and authorization, used the funds for his own benefit or for some purpose other than the benefit of the customers. NASD also found that Barge affixed the signature of a public customer to an application to purchase an automobile insurance policy without the knowledge or consent of the customer. In addition, Barge failed to respond to NASD requests for information and documents. (NASD Case #C8A010078)

Decole LeeAnn Bee (CRD #3251151, Registered Representative, Dallas, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Bee completed a personal line of credit application in the name of her grandfather and forged his name to the application without his knowledge or consent. NASD also found that Bee executed and processed cash advances and checks on the line of credit totaling \$6,550, thereby converting the funds to her own use and benefit. In addition, Bee failed to respond to NASD requests for information. (NASD Case #C05010055)

James Henry Bond, III (CRD #2001777, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Bond executed unauthorized transactions in the accounts of public customers. (NASD Case #C10000210)

Ronald A. Borunda (CRD #1819437, Registered Representative, Carlsbad, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, ordered to pay \$27,517.96 in disgorgement, and suspended from association with any NASD member in any capacity for six months. Payment of the fine and satisfactory proof of payment of the disgorgement is required before Borunda reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Borunda consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide his member firm with detailed written notice of the transactions and his role therein, and failed to receive permission from his member firm to engage in such transactions.

Borunda's suspension began July 15, 2002, and will conclude at the close of business January 14, 2003. (NASD Case #C02020025)

Wilbur Steven Brown (CRD #33129, Registered Representative, Jacksonville, Florida) submitted a Letter of

Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for eight months, and required to disgorge \$47,520 in commissions to public customers in partial restitution. The fine must be paid and the commissions disgorged before Brown reassociates with any NASD member 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 engaged in private securities transactions, for compensation, without providing prior written notice to, and receiving authorization from, his member firm.

Brown's suspension began June 3, 2002, and will conclude at the close of business February 2, 2003. (NASD Case #C07020034)

John Joseph Buglino (CRD #1112971, Registered Representative, Oakdale, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Buglino willfully failed to disclose information on his Form U-4. (NASD Case #C10010155)

Bradley James Burgess (CRD #2943905, Registered Principal, Parkland, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and barred from association with any NASD member in any capacity with the right to reapply for association with any NASD member in any capacity after three years. The fine is due and payable before Burgess requests relief from any statutory disqualification resulting from this or any other event or proceeding. Without admitting or denying the allegations, Burgess consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities. (NASD Case #C07020038)

Kent Jay Carter (CRD #2094797, Registered Representative, McCook, Nebraska) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Carter consented to the described sanctions and to the entry of findings that he engaged in the sale of securities to public customers referred to him by a registered representative with another firm, and paid a portion of the commissions received for these sales to the registered representative.

Carter's suspension began June 3, 2002, and concluded at the close of business June 14, 2002. (NASD Case #C04020016)

James Edward Cleary, Jr. (CRD #2655551, Registered Representative, Averturer, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000

and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Cleary consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities.

Cleary's suspension began June 17, 2002, and will conclude at the close of business July 16, 2002. (NASD Case #C07020041)

Howard Daniels (CRD #4010119, Registered Representative, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$641.37 in restitution to a bank. The restitution must be paid before Daniels requests relief from any statutory disqualification. Without admitting or denying the allegations, Daniels consented to the described sanctions and to the entry of findings that while working as a "Specialty Banker" with a bank that was an affiliate of his member firm, he took \$641.37 from the bank without its authorization or consent. The findings also stated that Daniels failed to respond to NASD requests for information. (NASD Case #C9A020022)

Luis Javier DelCastillo, II (CRD #2379491, Registered Representative, Lake Worth, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, DelCastillo consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material omissions of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities.

DelCastillo's suspension began June 17, 2002, and concluded at the close of business June 28, 2002. (NASD Case #C07020037)

Harold Philip Donnerstag (CRD #2691932, Registered Representative, Matawan, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Donnerstag consented to the described sanctions and to the entry of findings that he purchased shares of stock for public customers without the customers' authorization.

Donnerstag's suspension began July 1, 2002, and concluded at the close of business July 12, 2002. (NASD Case #C9B020038)

George Ronald Dye (CRD #74390, Registered Representative, Warren, Indiana) submitted a Letter of

Acceptance, Waiver, and Consent in which he was fined \$31,640, including \$16,640 disgorgement of compensation, and suspended from association with any NASD member in any capacity for one year. Payment of the fine is required before Dye reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dye consented to the described sanctions and to the entry of findings that he engaged in business activities outside the scope of his relationship with his member firm without prompt written notice to the firm. The findings also stated that Dye participated in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Dye's suspension began June 17, 2002, and will conclude at the close of business June 16, 2003. (NASD Case #C3A020024)

Vinson Foresta (CRD #2567149, Registered Representative, Edison, New Jersey) submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Foresta reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Foresta consented to the described sanctions and to the entry of findings that, in the solicitation of public customers to purchase warrants and initial public offering (IPO) units, he intentionally, or, at a minimum, recklessly, made material, misleading, and false representations to public customers that were without a reasonable basis. The findings also stated that Foresta, acting intentionally, or, at a minimum, recklessly, made material, misleading, and false representations to a public customer to induce the customer to ratify unauthorized transactions in his account that had been effected by another registered representative without the prior knowledge, authorization, or consent of the customer. In addition, NASD found that Foresta sold, or caused to be sold, warrants from the account of a public customer without the customer's prior knowledge, authorization, or consent.

Foresta's suspension began June 3, 2002, and will conclude at the close of business June 2, 2004. (NASD Case #C10010004)

Michael Carroll Gainer (CRD #2753550, Registered Representative, Jacksonville Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for eight months and required to disgorge \$22,000 in commissions to public customers in partial restitution. In light of the financial status of Gainer, no fines have been imposed and the disgorgement of commissions has been reduced from full disgorgement to \$22,000. The commissions must be disgorged

before Gainer reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gainer consented to the described sanctions and to the entry of findings that he participated in the sale of promissory notes outside the scope of his employment with his member firms without providing prior written notice to, and receiving authorization from, his member firms.

Gainer's suspension began June 3, 2002, and will conclude at the close of business February 2, 2003. (NASD Case #C07020033)

Anthony Salvatore Gentile (CRD #1307472, Registered Representative, Roswell, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. 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, Gentile consented to the described sanctions and to the entry of findings that he referred a client away from his member firm to another entity with which the client consummated a financing deal and for which Gentile received a referral fee. The findings also stated that Gentile failed to provide prompt written notice to his member firm of the referral fee.

Gentile's suspension began June 3, 2002, and concluded at the close of business July 2, 2002. (NASD Case #C07020031)

Stephan Jay Giuffrida (CRD #2586987, Registered Representative, Eastchester, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Giuffrida consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of customers and prospective customers to purchase equity securities.

Giuffrida's suspension began June 17, 2002, and will conclude at the close of business July 16, 2002. (NASD Case #C07020039)

George Robert Gonzalez (CRD #1266143, Registered Principal, Pompton Lakes, New Jersey) submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to pay \$8,000 in restitution to a public customer. Proof of restitution must be provided to NASD within 30 days of payment of the restitution or Gonzalez will be suspended from association with any NASD member in any capacity until such

proof has been provided. Without admitting or denying the allegations, Gonzalez consented to the described sanctions and to the entry of findings that he recommended and effected purchase transactions in the accounts of public customers without having reasonable grounds for believing that these recommendations and subsequent transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs.

Gonzalez' suspension began July 1, 2002, and will conclude at the close of business July 30, 2002. (NASD Case #C9B010093)

George Michael Goritz (CRD #226024, Registered Representative, New York, New York) was fined \$82,500 and suspended from association with any NASD member in any capacity for six months. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Goritz participated in private securities transactions without giving prior written notice to, and obtaining written approval from, his member firms. The findings also stated that Goritz disseminated an Offering Memorandum that contained material misrepresentations regarding Goritz' investment banking experience, and that he was reckless in using the Offering Memorandum to solicit investors without reviewing it and correcting the misrepresentation regarding his investment banking experience.

Goritz' suspension began July 1, 2002, and will conclude at the close of business December 31, 2002. (NASD Case #C10000037)

Vernard Benny Greene, Jr. (CRD #2831764, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Greene made unsuitable recommendations to public customers when he recommended, without a reasonable basis, the purchase of speculative securities in their individual retirement accounts. The findings also stated that Greene made baseless price predictions to public customers in connection with the purchase of speculative securities. In addition, NASD found that Greene failed to respond to NASD requests for information and documents. (NASD Case #C10010164)

Michael Glyn Grimes (CRD #2859084, Registered Representative, Memphis, Tennessee) was barred from association with any NASD member in any capacity. The sanction was based on findings that Grimes received a \$323 check from a public customer to pay a premium on his variable life insurance policy; failed to apply the premium payments; and converted the funds to his own use and benefit by endorsing the check and depositing it into a business checking account that he controlled, without the knowledge or consent of the customer. The findings also stated that Grimes failed to respond to NASD requests for information. (NASD Case #C05010033)

Chet C. Harris (CRD #2770791, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity and ordered to pay \$222,000, plus interest, in restitution to public customers. The sanctions were based on findings that Harris represented falsely or without a reasonable basis that securities would be publicly traded, would be purchased by institutional investors in the aftermarket, and would increase in value substantially. The findings also stated that Harris omitted to disclose material facts concerning the issuer's operating history and financial condition. (NASD Case #C10010166)

Carmell E. Hergert (CRD #4066113, Registered Representative, Beaumont, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Payment of the fine is required before Hergert reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hergert consented to the described sanctions and to the entry of findings that she willfully failed to disclose a material fact on her Form U-4.

Hergert's suspension began July 1, 2002, and will conclude at the close of business December 31, 2002. (NASD Case #C05020025)

Paul Jerome House, III (CRD #2471155, Registered Principal, Decatur, Illinois) 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, House consented to the described sanction and to the entry of findings that he participated in private securities transactions away from his member firm and failed and neglected to provide his firm with prior written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions. The findings also stated that House opened, or caused to be opened, a securities account with another member firm; failed to provide written notice to his member firm of his intention to execute transactions at the other firm; and failed to advise the firm at which he had opened the account of his association with his member firm. In addition, NASD found that House responded untruthfully to NASD requests for information and documents. (NASD Case #C8A020028)

Brian Michael Hunter (CRD #1002251, Registered Representative, Lincoln, Rhode Island) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and required to disgorge \$12,750 of the commissions he received and pay partial restitution, plus interest, to public customers. The fine and restitution amounts must be paid before Hunter reassociates with any NASD member in any capacity following the suspension or before requesting relief

from any statutory disqualification. Without admitting or denying the allegations, Hunter consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, without prior written notice to, or written approval from, his member firm.

Hunter's suspension began July 1, 2002, and will conclude at the close of business July 30, 2002. (NASD Case #C11020023)

Lisa Jean Jayne (CRD #4293153, Registered Representative, Meza, 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, Jayne consented to the described sanction and to the entry of findings that, while associated with a member firm and the firm's bank affiliate, she accessed the computer system of the bank; created bank accounts in the name of a relative without her authorization with \$1,000 credit lines to cover overdrafts; withdrew a total of \$3,760 from the fictitious accounts; and utilized the funds for her own use and benefit. The findings also stated that when Jayne's member firm and affiliate bank became aware of her inappropriate activities, she promptly repaid the \$3,760 to the bank. (NASD Case #C3A020022)

Alan Bruce Johnston (CRD #1559039, Registered Representative, Williamston, South Carolina) was barred from association with any NASD member in any capacity. The sanction was based on findings that Johnston engaged in private securities transactions, for compensation, without providing prior written notification to, or receiving authorization from, his member firm. The findings also stated that Johnston failed to respond to NASD requests for information. (NASD Case #C07010101)

Tony Gray Jones (CRD #4223507, Associated Person, Crestview, Florida) 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 one year. 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, Jones consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Jones' suspension began June 3, 2002, and will conclude at the close of business June 2, 2003. (NASD Case #C07020032)

John Joseph Kenny (CRD #2122478, Registered Principal, Hoboken, New Jersey) 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, Kenny consented to the entry of findings that he executed a transaction in the joint account of public customers without the

customers' prior knowledge, authorization, or consent. The findings also stated that Kenny failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10010158)

Thomas Joseph Kigin (CRD #4134681, Registered Representative, Downers Grove, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Kigin provided false information on his Form U-4 and failed to respond to NASD requests for information. (NASD Case #C8A010090)

Troy Adam Koubek (CRD #2575692, Registered Representative, Howard Beach, New York) was barred from association with any NASD member in any capacity and ordered to pay \$17,000, plus interest, in restitution to a public customer. The sanctions were based on findings that Koubek engaged in private securities transactions and failed to provide prior written notice of the transactions to his member firm. The findings also stated that Koubek failed to respond to NASD requests for information and to appear for an on-the-record record. (NASD Case #C10010114)

William Scott Langley (CRD #2267018, Registered Representative, Adrian, 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, Langley consented to the described sanction and to the entry of findings that he received checks totaling \$43,106 from a public customer for investment purposes made payable to a company that Langley owned and controlled. The findings stated that Langley failed and neglected to invest the funds as instructed by the customer and instead endorsed the checks, deposited them into his own business account, and used the funds for his own personal benefit without the customer's knowledge or consent. (NASD Case #C8A020027)

Salvatore Paul Liggieri (CRD #850269, Registered Principal, Garden City, 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, Liggieri consented to the described sanction and to the entry of findings that he entered into a settlement agreement with a public customer to compensate the customer for trading losses without informing or obtaining authorization from his member firm. The findings also stated that Liggieri entered into a revised settlement agreement with the customer, increasing the amount of compensation owed to the customer, without informing or obtaining authorization from his member firm. NASD found that Liggieri entered into a settlement agreement with a public customer and made settlement payments to a public customer totaling \$52,000 without informing or obtaining authorization from his member firm. In addition, the findings stated that Liggieri entered into an agreement with a public customer to recompense the customer

for trading losses, secured over \$200,000 in payments to the customer, and signed a promissory note in which he assumed a \$122,500 debt owed by the customer without informing or obtaining authorization from his firm. In order to secure the payments from the customers, Liggieri intentionally or recklessly misrepresented the nature of the payments to the customers by stating that the customer managed a hedge fund into which their funds would be invested; this action constituted a material misrepresentation or omission of facts because Liggieri knew, or should have known, that the former customer did not manage a hedge fund and did not intend to invest the funds as alleged. Moreover, NASD found that Liggieri engaged in private securities transactions and failed to provide prior written notification to, or obtain written authorization from, his member firm. (NASD Case #C10020049)

James Patrick Maher (CRD #2183507, Registered Representative, Loveland, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Maher reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Maher consented to the described sanctions and to the entry of findings that he applied for and received personal bank loans solely in the name of his wife and obtained these loans in the total amount of \$10,550 by forging his wife's signature on the loan applications without her knowledge, authorization, or consent.

Maher's suspension began July 15, 2002, and will conclude at the close of business July 14, 2003. (NASD Case #C8B020013)

Michael Dennis Moody (CRD #1008506, Registered Principal, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in a principal capacity and suspended from association with any NASD member in any capacity for two years. In light of the financial status of Moody, no monetary sanctions have been imposed. Without admitting or denying the allegations Moody consented to the described sanctions and to the entry of findings that he did not adequately supervise a registered representative to achieve compliance with certain NASD rules.

Moody's suspension began July 1, 2002, and will conclude at the close of business June 30, 2004. (NASD Case #C02020023)

Victor Mowat (CRD #341765, Registered Representative, Trenton, 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, Mowat consented to the described

sanction and to the entry of findings that he failed to respond to NASD requests for documents and information. (NASD Case #C9A020021)

Monty Reasor Myler (CRD #1922281, Registered Representative, Palm Beach Gardens, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity; ordered to pay \$56,120, plus interest, in restitution to public customers; and ordered to pay a public customer the arbitration award granted to him in the sum of \$15,005, plus interest. The restitution amounts and the arbitration award must be paid, or proof provided that the arbitration award has been settled, immediately upon Myler's reassociation with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Myler consented to the described sanctions and to the entry of findings that he recommended to public customers the purchase of shares of stock—falsely representing that the shares could be purchased through an IPO—and predicted the price of the stock would increase substantially without any reasonable basis for the prediction. The findings also stated that Myler failed to disclose the speculative nature of the stock, including the fact that it had generated no revenue and had lost approximately \$200,000 since its inception. In addition, NASD found that Myler failed to pay an arbitration award to a public customer. (NASD Case #CAF010024)

Brian Joseph Nagy (CRD #2652316, Registered Representative, East Brunswick, 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, Nagy consented to the described sanction and to the entry of findings that he converted \$36,033 of a public customer's funds for his own use and benefit without the customer's knowledge, authorization, and consent. (NASD Case #C9B020041)

Edmond Namordi (CRD #1036774, Registered Representative, Skokie, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 business days. Payment of the fine is required before Namordi reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Namordi consented to the described sanctions and to the entry of findings that he engaged in outside business activities for which he received compensation without prior written notice to his member firm.

Namordi's suspension began July 1, 2002, and will conclude at the close of business August 12, 2002. (NASD Case #C8A020034)

Matthew Edward Nolen (CRD #4132361, Registered Representative, Mt. Zion, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Payment of the fine is required before Nolen reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Nolen consented to the described sanctions and to the entry of findings that he participated in private securities transactions, failed to provide his member firm with detailed written notice of the transactions and his role therein, and failed to receive permission from his member firm to engage in such transactions.

Nolen's suspension began June 17, 2002, and concluded at the close of business June 28, 2002. (NASD Case #C8A020029)

Michael Weldon Norville (CRD #1078005, Registered Representative, Louisville, Kentucky) 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 \$785,612, plus interest, in restitution to public customers. Payment of restitution is required before Norville reassociates with any NASD member following the bar or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Norville consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide his member firm with detailed written notice of the transactions, his role therein, and whether he had received or would receive selling compensation in connection with the transactions. (NASD Case #C05020028)

John Michael Palermo (CRD #2156479, Registered Principal, Holbrook, 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 three months. In light of the financial status of Palermo, a fine of \$2,500 has been imposed. Without admitting or denying the allegations, Palermo consented to the described sanctions and to the entry of findings that, while associated with a member firm, he contacted a prospective customer of the firm and recommended that he purchase securities in a transaction away from the firm, and failed to provide written notification to his member firm prior to the prospective customer transmitting funds away from the firm to effect the purchase.

Palermo's suspension began June 3, 2002, and will conclude at the close of business September 2, 2002. (NASD Case #C10020047)

Stephen Dean Palmer (CRD #1667018, Registered Representative, Tecumseh, Michigan) submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30

business days. Payment of the fine is required before Palmer reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Palmer consented to the described sanctions and to the entry of findings that he settled a customer complaint away from his member firm.

Palmer's suspension began July 15, 2002, and will conclude at the close of business August 25, 2002. (NASD Case #C8A020009)

Howard Richard Perles (CRD #1174341, Registered Principal, Staten Island, New York) and Laurence Mark Geller (CRD #1533947, Registered Representative, Demarest, New Jersey) were fined \$25,000 each and required to requalify as general securities representatives. Perles was suspended from association with any NASD member in any capacity for one year and Geller was suspended from association with any NASD member in any capacity for 30 business days. The Securities and Exchange Commission (SEC) imposed the sanctions following appeal of a NAC decision. The sanctions were based on findings that Perles and Geller aided and abetted another member firm in the fraudulent manipulation of a Nasdaq-listed common stock by engaging in prearranged, matched trading with the firm. The findings also stated that Perles and Geller failed to reflect accurately the prearranged trades on the books and records of their member firms.

Perle's suspension began July 1, 2002, and will conclude at the close of business on June 30, 2003. Geller's suspension began July 1, 2002, and will conclude at the close of business on August 12, 2002. (NASD Case #CAF980005)

John Thomas Pisapia (CRD #2336216, Registered Principal, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in a principal capacity for 20 business days. Without admitting or denying the allegations, Pisapia consented to the described sanctions and to the entry of findings that he failed to establish, maintain, and enforce adequate written supervisory procedures in that he failed to designate an appropriately registered person to supervise the activities of a registered representative. The findings also stated that Pisapia failed to establish, maintain, and enforce adequate written supervisory procedures for monitoring compliance with the Regulatory Element of NASD's Continuing Education Program. NASD also found that the firm's written supervisory procedures failed to address adequately advertising, registration of personnel, recordkeeping, SEC Rule 21(a) issues, order execution rules, trade reporting, and dates when supervisory responsibility became effective. In addition, NASD found that Pisapia permitted individuals associated with his member firm to act as registered individuals while their registration status with NASD was inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education Requirement.

Pisapia's suspension began June 17, 2002, and will conclude at the close of business July 15, 2002. (NASD Case #C10020048)

Joseph Augustus Polhill, Jr. (CRD #1131458, Registered Principal, Lincolnton, North Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Polhill consented to the described sanction and to the entry of findings that he participated in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions and his role therein. (NASD Case #C3A020025)

Brian Timothy Rice (CRD #3019174, Registered Representative, Niskayuna, 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, Rice consented to the described sanction and to the entry of findings that he misappropriated to his own use and benefit, insurance premium payments totaling approximately \$2,600 received from insurance clients. (NASD Case #C11020022)

Rex Allen Rodda (CRD #2611179, Registered Principal, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in a general securities principal capacity for 10 business days. In light of the financial status of Rodda, no monetary sanction has been imposed. Without admitting or denying the allegations, Rodda consented to the described sanction and to the entry of findings that Rodda, acting on behalf of his member firm, participated in a contingency offering of common stock and in contravention of Section 15c of the Exchange Act and Rule 15c2-4 thereunder; investor funds raised in the offering were not transmitted to a proper escrow account as required by the Rule because the escrow agreement did not set forth the contingency deadline or the extended contingency deadline. The findings also stated that Rodda, acting on behalf of his member firm, did not return investor funds to the persons entitled thereto when his member firm failed to raise the minimum-offering amount by the contingency deadline or the extended contingency deadline.

Rodda's suspension began July 15, 2002, and will conclude at the close of business July 24, 2002. (NASD Case #C02020027)

Michael Gerard Rogan (CRD #1503029, Registered Principal, Clearwater, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, jointly and severally, and suspended from association with any NASD member in any principal capacity for 30 days. In light of the financial status of Rogan, a \$5,000 fine was imposed. Without admitting or denying the allegations, Rogan consented to the described sanctions and to the entry of findings that a

member firm, acting through Rogan, failed to establish and maintain a supervisory system reasonably designed to achieve compliance with federal securities laws, regulations, and NASD rules. The findings also stated that Rogan failed to reasonably supervise an associated person's activities on behalf of his member firm. NASD also found that Rogan failed to take steps to investigate the person's conduct and insure that his actions complied with applicable securities laws and NASD rules despite receiving notice that the person was acting improperly as a registered principal.

Rogan's suspension began June 17, 2002, and will conclude at the close of business July 16, 2002. (NASD Case #CAF020017)

Michael Jay Rudolph (CRD #1199943, Registered Representative, Twinsburg, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$90,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Rudolph reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rudolph consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide his member firm with prompt written notice of his activities.

Rudolph's suspension began June 17, 2002, and will conclude at the close of business June 16, 2003. (NASD Case #C8B020011)

Richard Alfred Saitta (CRD #2592014, Registered Principal, Yorktown Heights, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 30 days, and suspended from association with any NASD member in a principal capacity for one year. Without admitting or denying the allegations, Saitta consented to the described sanctions and to the entry of findings that he made material misrepresentations of fact in the form of unwarranted predictions of substantial price increases without a sufficient basis in connection with his solicitation of public customers and prospective customers to purchase low-priced speculative and other securities. The findings also stated that Saitta failed to reasonably supervise the registered representatives in his branch office in that they made material misrepresentations of fact in connection with the solicitation of public customers and prospective customers to purchase equity securities.

Saitta's suspension in any capacity began June 17, 2002, and will conclude at the close of business July 16, 2002. Saitta's suspension in a principal capacity began June 17, 2002, and will conclude at the close of business June 16, 2003. (NASD Case #C07020040)

Matthew Lee Sechter (CRD #2826214, Registered Representative, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and barred from association with any NASD member in any capacity with the right to reapply for association with any NASD member in any capacity after three years. The fine is due and payable before Sechter reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sechter consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities. (NASD Case #C07020035)

Richard Shane (CRD #419822, Registered Representative, Old Brookville, 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, Shane consented to the described sanction and to the entry of findings that he engaged in business activities outside the scope of his relationship with his member firm, for compensation, and failed to provide prompt written notice to his member firm concerning his activities. The findings also stated that Shane failed to respond to an NASD request to appear for an on-the-record interview. (NASD Case #CL1020002)

Amador Sierra (CRD #4249904, Registered Representative, Redding, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. Payment of the fine is required before Sierra reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sierra consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U-4. The findings also stated that Sierra failed to respond timely to NASD requests for information.

Sierra's suspension began June 17, 2002, and will conclude at the close of business December 16, 2002. (NASD Case #C01020009)

Thomas Michael Thomas, II (CRD #2070738, Registered Representative, Chagrin Falls, 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, Thomas consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his Forms U-4. The findings also stated that Thomas failed to respond to NASD

requests for documents and information. (NASD Case #C8B020012)

Bobby R. Turner, Jr. (CRD #3252999, Registered Representative, Westland, Michigan) was barred from association with any NASD member in any capacity. The sanction was based on findings that Turner willfully failed to disclose a material fact on his Form U-4. (NASD Case #C8A010063)

Robert Lawrence Vanderbrook (CRD #2544244, Registered Representative, Metairie, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 business days. Payment of the fine is required before Vanderbrook reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Vanderbrook consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the account of a public customer without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm. The findings also stated that Vanderbrook interfered with his member firm's compliance with NASD Conduct Rule 2230 by delaying the delivery of securities transaction confirmations to a public customer.

Vanderbrook's suspension began June 3, 2002, and will conclude at the close of business July 15, 2002. (NASD Case #C05020019)

Frank James Varsalona (CRD #3211699, Registered Representative, Margate, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Varsalona effected unauthorized transactions in the accounts of public customers. (NASD Case #C07010086)

Michelle Louise Webb (CRD #2565381, Registered Representative, Prescott, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$34,890 and suspended from association with any NASD member in any capacity for two years. Payment of the fine is required before Webb reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Webb consented to the described sanctions and to the entry of findings that she participated in private securities transactions away from her member firm and failed to provide her firm with prior written notice of the transactions and her role therein, and failed to receive permission from the firm to engage in the transactions.

Webb's suspension began June 17, 2002, and will conclude at the close of business June 16, 2004. (NASD Case #C3A020023)

Benjamin Tianbing Wei (CRD #2832553, Registered Principal, Oklahoma City, Oklahoma) 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. Payment of the fine is required before Wei reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wei consented to the described sanctions and to the entry of findings that he maintained accounts with a member firm over which he had discretionary authority without providing written notification to his member firm.

Wei's suspension began July 1, 2002, and concluded at the close of business July 8, 2002. (NASD Case #C05020026)

Richard Irving Weise (CRD #2023552, Registered Principal, Eustis, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, including disgorgement of \$12,460 in earned commissions, and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Weise reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Weise consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Weise's suspension began July 1, 2002, and will conclude at the close of business March 31, 2003. (NASD Case #C07020046)

Dennis Felton Whitfield (CRD #1662916, Registered Representative, Modesto, California) submitted an Offer of Settlement in which he was fined \$12,875 and suspended from association with any NASD member in any capacity for 60 days. Payment of the fine is required before Whitfield reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Whitfield consented to the described sanctions and to the entry of findings that he participated in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Whitfield's suspension began June 17, 2002, and will conclude at the close of business August, 15, 2002. (NASD Case #C01010013)

John Sherwood Wilson, Jr. (CRD #1348671, Registered Representative, Dallas, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any

capacity for six months. The fine must be paid before Wilson reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wilson consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information and documents.

Wilson's suspension began July 1, 2002, and will conclude at the close of business December 31, 2002. (NASD Case #C9A020025)

Edward Joseph Wolf, Jr. (CRD #471134, Registered Representative, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. Payment of the fine is required before Wolf reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wolf consented to the described sanctions and to the entry of findings that he participated in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions.

Wolf's suspension began July 1, 2002, and will conclude at the close of business June 30, 2003. (NASD Case #C05020027)

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 June 7, 2002. The findings and sanctions imposed in the decisions 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*.

Dane Stephen Faber (CRD #1020637, Registered Principal, Sausalito, California) was fined \$35,000, suspended from association with any NASD member in any capacity for one year, and ordered to pay restitution of \$134,435, plus interest, to public customers. The sanctions were based on findings that Faber, while soliciting public customers to purchase common stock, made material misrepresentations that the stock was being sold pursuant to an IPO; made baseless price predictions and generalized assurances of success regarding the stock; and failed fully to disclose the speculative nature of the security. The findings also stated that Faber made recommendations to a public customer that were unsuitable for her stated investment objectives.

Faber has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #CAF010009)

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.

Osterneck has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. (NASD Case #C9A010006)

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.

Andy Cracchiolo (CRD #4233882, Associated Person, Phoenix, Arizona) was named as a respondent in an NASD complaint alleging that he engaged in a course of conduct whereby he would enter a small buy (sell) order into an Electronic Communications Network (ECN) at a price that affected the national best bid (offer) for the purpose of facilitating the automatic execution of his larger sell (buy) order on the opposite side of the market at that price by a market maker that guaranteed that it would provide an execution at the inside market. The complaint also alleges that, by engaging in this manipulative scheme, Cracchiolo was able to buy (sell) shares of a security at a price that otherwise would not have been available in the market. (NASD Case #CMS020089)

Richard Scott From (CRD #703869, Registered Principal, Roseville, California) and **Frank Darnell Fisher, Jr. (CRD #2642052, Registered Representative, Vacaville, California)** were named as respondents in an NASD complaint alleging that they recommended and sold shares of securities to public customers and failed to disclose that they received a bonus in the form of a commission or sales credit on the security amounting to 33 percent of the retail sales price. The complaint also alleges that From and Fisher knew, or should have known, that such prices were excessive and unfair and represented material, financial self-interests in the security, the existence and magnitude of which was required to be disclosed to their customers. The complaint further alleges that From and Fisher, in their recommendations of penny stock purchases, failed to furnish customers, prior to effecting transactions, a risk disclosure document containing information required by the penny stock rules, and failed to obtain from customers a manually signed and dated written statement acknowledging

receipt of such risk disclosure document prior to effecting customer transactions.

In addition, the complaint alleges that From and Fisher failed to disclose to their penny stock customers, either orally or in writing, the inside bid and offer quotations prior to effecting transactions, and failed to provide the same in writing at, or prior to, the time of any written confirmation sent to the customer. Furthermore, the complaint alleges that From and Fisher failed to disclose to customers, either orally or in writing, the aggregate amount of cash compensation received, or to be received, from any source in connection with the transaction prior to effecting such customer transactions, and failed to keep and preserve records of such disclosures as required by the penny stock rules. Moreover, the complaint alleges that From recommended the purchase of shares of another security to public customers and failed to disclose that he had entered into an agreement with the issuer to receive 120,000 shares of stock—representing a material, financial self-interest that was large enough to influence his recommendation of the security—thereby depriving his customers of material information needed to evaluate his recommendation of the security. (NASD Case #CMS020090)

James Edward Hurley (CRD #2626141, Registered Representative, Plano, Texas) was named as a respondent in an NASD complaint alleging that he caused checks totaling \$186,000 to be drawn on a public customer variable annuity account without the customer's knowledge or consent in that Hurley signed the customer's name and/or customer's daughter name on a withdrawal form, forwarded the form to the issuer of the annuity, and, when the checks were disbursed pursuant to a withdrawal form, Hurley went to the customer's home to retrieve the check from the mail. The complaint alleges that Hurley subsequently signed the customer's name and/or customer's daughter name on each check, endorsed the checks with the phrase "pay to the order of James E. Hurley," deposited each check into his personal bank accounts, and utilized the majority of the funds to his personal benefit and enjoyment. In addition, the complaint alleges that Hurley failed to respond to NASD requests for information. (NASD Case #C06020005)

Howard William Schwartz (CRD #2706982, Registered Representative, Rego Park, New York) was named as a respondent in an NASD complaint alleging that, in connection with the purchase or sale of a security, Schwartz, through means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly employed a device, scheme, contrivance or artifice to defraud a public customer made an untrue

statement of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon the public customer. The complaint also alleges that Schwartz executed, or caused to be executed, transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint further alleges that Schwartz failed to provide an accurate, non-deceptive, and/or complete response to an NASD request for information. (NASD Case #C10020052)

Stanley Walker (CRD #2601447, Registered Representative, Crestwood, New York) was named as a respondent in an NASD complaint alleging that he converted approximately \$35,500 in funds of a public customer in that he effected the transfer of funds from the customer's checking account to his own checking account for his own use and benefit without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Walker failed to respond to NASD requests for information. (NASD Case #10020050)

Stephen Robert Walling (CRD #2265946, Registered Representative, Jackson, New Jersey) was named as a respondent in an NASD complaint alleging that he purchased, or caused to be purchased, securities in the accounts of public customers without the prior knowledge, authorization, or consent of the customers. The complaint also alleges that Walling failed to respond to NASD requests for information. (NASD Case #C9B020039)

James Arthur Will (CRD #2701284, Registered Representative, Indianapolis, Indiana) was named as a respondent in an NASD complaint alleging that he purchased and sold shares of stock in the account of a public customer without the knowledge or consent of the customer, and in the absence of written or oral authorization to exercise discretion in the account. The complaint also alleges that Will failed to respond to NASD requests for information and documents. (NASD Case #C8A020026)

Firms Suspended for Failure to Supply Financial Information

The following firms were 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.

American Investment Services, Inc.
Oklahoma City, Oklahoma
(June 3, 2002)

Astute Investors Corporation
Bronx, New York
(June 3, 2002)

Extrayield.com LLC
New York, New York
(May 21, 2002)

Gem Advisors, Inc.
New York, New York
(June 3, 2002)

Oak Brook Securities Corp.
Oakbrook Terrace, Illinois
(May 28, 2002)

Sartena Securities, Inc.
New York, New York
(May 31, 2002)

Firm Barred Pursuant to NASD Rule 9511(a)(2)(B) for Failure to Meet the Eligibility Requirements for Continuance in Membership

Diamond Funding, LLC
Greenville, South Carolina
(June 3, 2002)

Diamond Funding has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #RSC020703)

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.)

Amenu, Dodzi K.
Silver Spring, Maryland
(May 28, 2002)

Anderson, Thomas W.
 Mooresville, North Carolina
(May 28, 2002)

Biddick, Bruce A.
Rancho Sante Fe, California
(May 28, 2002)

Busse, Paul J.
San Francisco, California
(May 28, 2002)

Giordano, Anthony F.
Deerfield Beach, Florida
(June 5, 2002)

Lu, Frederick
Los Angeles, California
(May 20, 2002)

Sapienza, Salvatore
Ronkonkoma, New York
(May 6, 2002)

Schafranick, Paul R.
Aventura, Florida
(May 20, 2002)

Simmons, Monica Lynn
St. Petersburg, Florida
(May 7, 2002)

Valentino, Toni M.
Boca Raton, Florida
(May 13, 2002)

Valentino has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #FPI010004)

Warren, Jeffrey S.
Coral Spring, Florida
(May 13, 2002)

Whiton, Rod
Marlton, New Jersey
(May 16, 2002)

Yang, Yonseung
Sunnyvale, California
(May 9, 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.)

Bailey, Robert W.
Canton, Michigan
(May 6, 2002)

Bari, Jr., James L.
Woodhaven, New York
(May 22, 2002)

Boedigheimer, David W.
Morris, Illinois
(May 20, 2002)

Bongiorno, Gaspare
Glendale, New York
(May 9, 2002)

Cassuto, David I.
Lido Beach, New York
(May 14, 2002)

Crosby, David
Sandy, Utah
(May 29, 2002)

Dodd, Thomas R.
Venice, Florida
(June 3, 2002)

Finkel, David Solomon
West Hempstead, New York
(May 17, 2002)

Fleitz, Chad Alan
Toledo, Ohio
(May 23, 2002)

Ford, Ralph
White Pigeon, Michigan
(May 6, 2002)

Kim, Jungmin
Pasadena, California
(June 3, 2002)

Morgan, Leslie E.
Converse, Texas
(May 10, 2002)

Shuey, III, Robert A.
Dallas, Texas
(May 20, 2002)

Speights, Sharon
Toledo, Ohio
(May 13, 2002)

Tambke, Theodore
New York, New York
(May 17, 2002)

Thompson, Rory L.
Conway, Arkansas
(May 28, 2002)

Torres, Ricardo M.
Miami, Florida
(May 21, 2002)

Individual 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.

Smith, Daniel
Tampa, Florida
(June 7, 2002)