Disciplinary Actions

Disciplinary Actions Reported For February

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

Firms Expelled, Individuals Sanctioned

The Hamilton-Shea Group, Inc. (CRD #37526, Pompano Beach, Florida) and Michael Thomas O'Hara (CRD #848213, Registered Principal, Topeka, Kansas). The firm has been fined $1,375,000 and expelled from NASD membership. In the event the firm attempts to become an NASD member, the fine must be paid and the firm must rescind penny stock transactions. O'Hara has been fined $10,000 and barred from association with any NASD member in any principal capacity. The fine must be paid before O'Hara reassociates with any NASD member. The sanctions are based on findings that the firm bid for, purchased, and attempted to induce others to purchase the securities of a common stock while acting as a distribution participant, and engaged in penny stock transactions without complying with penny stock rule disclosure and suitability requirements.

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

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

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

Firm Fined, Individual Sanctioned

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

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

Firms And Individuals Fined

Aethlon Capital, L.L.C. (CRD #42241, Minneapolis, Minnesota) and John William Pagnucco, Jr. (CRD #355245, Registered Principal, Wayzata, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which they were fined $10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Pagnucco, commenced private placement contingent offerings and failed to establish independent escrow accounts for the offerings into which customer funds would be deposited pending the achievement of the contingency. The NASD found that the firm held the funds until a later date or until the offering closed. The findings also stated that the firm, acting through Pagnucco, permitted sales in an offering beyond the time period specified in the offering documents without providing notice to prior investors, reconfirming their purchases or offering them rescission, and conducted a securities business while failing to maintain adequate minimum net capital. The NASD also found that the firm, acting through Pagnucco, failed to make and keep current a blotter containing an itemized daily record of the receipt, delivery, and/or disbursement of the customer funds and customer checks received from the contingent offerings. **(NASD Case #C04020001)**

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

Premier Group, Inc. (CRD #47346, San Antonio, Texas) and Hugh John Graham (CRD #1542345, Registered Principal, San Antonio, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined $12,500, jointly and severally, and the firm and Graham agreed to the imposition of an advertising "pre-use filing requirement" for a one-year period, whereby the respondents must file sales literature with the Advertising Regulation Department of NASD Regulation and obtain approval for the use of such sales literature prior to the time such sales literature is used.

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

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

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

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

Firms Fined

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

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

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

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

M&I Brokerage Services, Inc. (CRD #16517, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined $20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed individuals who were registered with the firm as investment company and variable contracts products representatives to act in capacities requiring registration as general securities representatives by, among other things, paying, or causing to be paid to, the representatives compensation based on equity securities transactions executed in customer accounts. The NASD also found that the firm failed to administer a continuing education program for the firm element for its registered persons. **(NASD Case #C8A010043)**

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

Market Wise Securities, Inc. (CRD #45269, Broomfield, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined $10,000, and required to revise its written supervisory procedures relating to OATS rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on The Nasdaq Stock Market® that were not in the electronic form prescribed by the NASD. The reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web Site. The firm did not correct or replace the subject reports and, thus, failed to report such information to OATS correctly. The NASD found that the firm failed to report all applicable order information required to be recorded under the NASD Marketplace Rule 6954 to OATS for 25 business days during the review period. The findings also stated that the firm did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the OATS rules. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS010200)**

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

Schonfeld Securities, LLC (CRD #23304, Jericho, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined $15,000, and required to revise its written supervisory procedures concerning ACT reporting, Small Order Execution System℠ (SOES℠) trading, trade reporting, books and records, harassment of market participants, the prompt receipt and delivery of securities, SEC Rule 10a-1, OATS reporting, and best execution. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale orders in certain securities and failed to maintain a written record of the affirmative determination made for such orders.

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

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

Individuals Barred Or Suspended

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

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

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

Thomas J. Braden (CRD #2729803, Registered Representative, Toms River, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined $5,000, ordered to pay $8,250 in disgorged commissions in partial restitution to public customers, and suspended from association with any NASD member in any capacity for 15 months. Payment of the fine and satisfactory proof of payment of the disgorgement is required before Braden reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Braden consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

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

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

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

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

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

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

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

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

John Joseph Cioffoletti (CRD #2066033, Registered Representative, Fairhaven, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cioffoletti consented to the described sanction and to the entry of findings that while associated with a former member firm, he participated in several fraudulent schemes to manipulate the stock price of various companies and fraudulently induced investors to buy and hold such securities. The findings also stated that Cioffoletti entered a guilty plea to multiple counts of securities fraud conspiracy and securities fraud. **(NASD Case #C9B010102)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Robert Sippel Harrison (CRD #1891983, Registered Representative, Jacksonville, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to disgorge $457.50. Satisfactory proof of payment of disgorgement must be made before Harrison reassociates with any NASD member. Without admitting or denying the allegations, Harrison consented to the described sanctions and to the entry of findings that he engaged in outside business activities for which he received compensation without prior written notice to his member firm. **(NASD Case #C07010102)**

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

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

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

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

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

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

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

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

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

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

Michael James Kincaid (CRD #2054052, Registered Representative, Boomer, West Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined $5,000, ordered to disgorge $6,226.12, plus interest, to public customers, and suspended from association with any NASD member in any capacity for two years. Payment of the fine and satisfactory proof of payment of the disgorgement is required before Kincaid reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kincaid consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with prior detailed written notice of the transactions.

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

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

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

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

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

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

David Robert Lippa, Jr. (CRD #1696616, Registered Representative, Unadilla, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay $484,000, plus interest, in restitution to public customers. The restitution must be paid before Lippa reassociates with any NASD member or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Lippa consented to the described sanctions and to the entry of findings that he was engaged in private securities transactions without prior written notice to, or approval from, his member firm. The NASD also found that Lippa converted for his own use and benefit portions of the funds he received from public customers who purchased the private securities transactions from him. **(NASD Case #C11010042)**

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

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

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

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

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

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

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

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

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

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

Jim Newcomb (CRD #1376482, Registered Representative, Fort Collins, Colorado) was fined $32,0000 and suspended from association with any NASD member in any capacity for two years. The SEC affirmed the sanctions following appeal of a November 16, 2000, NAC decision. The sanctions were based on findings that Newcomb engaged in private securities transactions, for compensation, without providing prior written notice of his intention to participate in such transactions to, and receiving permission from, his member firm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dawn Marie Stuhr (CRD #2985179, Registered Representative, Davidson, North Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stuhr consented to the described sanction and to the entry of findings that she caused checks totaling $6,560 to be issued from the bank account of a public customer without the customer's authorization, and then obtained and used the proceeds for her own use and benefit. **(NASD Case #C07010105)**

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

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

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

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

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

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

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

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

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

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

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

Decisions Issued

The following decisions have been issued by the DBCC or the Office or Hearing Officers and have been appealed to or called for review by the NAC as of January 4, 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*.

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

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

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

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

Complaints Filed

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

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

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

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

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

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

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

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

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

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

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

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

Firm Suspended For Failure To Supply Financial Information

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the 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.

Ameritrust Securities, Inc.,
Torrington, Connecticut
(January 4, 2002)

Suspension Lifted

The NASD has lifted the suspension from membership on the date shown for the following firm because it has complied with formal written requests to submit financial information.

The Sunnoor Corporation,
Lockwood, California
(December 17, 2001)

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.)

Chan, Brian,
San Diego, California
(December 28, 2001)

Darlington, Douglas K.
Morristown, New Jersey
(December 31, 2001)

Flowers, Troy
Lemon Grove, California
(December 28, 2001)

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.

Hayes, Harold R.
Winder, Georgia
(December 31, 2001)

Onthank, Sr., Robert Pierce
Fairfield, Connecticut
(January 14, 2002)

NASD Regulation Fines And Censures Worldco, LLC, And Former Principal For Day Trading Margin Violations

NASD Regulation censured and fined Worldco, LLC, of New York City $175,000 for violating NASD day trading rules. Additionally, NASD Regulation announced that Worldco's former Chief Financial Officer, Terry T. Maloney, was censured and fined together with the firm, an additional $15,000 for the violations.

NASD Regulation found that from October 1998 through March 2000, Worldco failed to adequately monitor, calculate, and enforce NASD day trading margin requirements for a prime brokerage account of an institutional customer. Worldco cleared and financed transactions in that customer's account.

NASD Regulation found that Worldco failed to monitor and calculate whether the account, which engaged in extensive day trading, exceeded day trading buying power. As a result, Worldco was not able to determine whether the account had sufficient equity, and whether a margin call needed to be issued. It was found that Worldco, acting through Maloney, who was responsible for ensuring the firm's compliance with day trading margin rules, violated NASD rules.

In a typical prime brokerage account, an institutional investor will execute trades with various broker/dealers, and the trades will be aggregated in the prime brokerage account for the purpose of clearance and settlement. The clearing firm is responsible for ensuring that the prime brokerage account is maintained pursuant to the requirements of Regulation T and applicable Self Regulatory Organization margin rules. NASD rules require, among other things, that a firm ensure that a customer's account maintains sufficient equity, and in the case of a deficiency, require that the customer provide additional cash or securities to meet any deficiency.

As a part of the settlement with NASD Regulation, Worldco and Maloney neither admitted nor denied NASD Regulation's findings.

NASD Regulation Directs Knight Securities, L.P., To Pay $1.5 Million For Market Violations

$700,000 Fine to NASD, $800,000 Payments to Clients

NASD Regulation announced that Knight Securities, L.P., has been censured, fined $700,000, and directed to pay $800,000 to clients of the firm. The sanctions were imposed for wide-ranging market making and trading violations, including failure to honor posted quotes and to accurately report trades to the NASD. The fine and payments made by Knight are the largest ever imposed by NASD Regulation for these types of marketplace violations.

NASD Regulation found that Knight committed numerous violations of federal securities laws and NASD rules spanning the 4-year period from July 1997 to May 2001—a period of rapid expansion for the firm. Among the most significant was a series of violations of the locked and crossed markets rule that emerged during separate review periods from 1998 to 2001. The locked and crossed violations occurred during normal trading hours, before the market opened, and in trading following Initial Public Offerings (IPOs). NASD Regulation also found that Knight failed to honor posted quotes, promptly display limit orders, and to report thousands of trades timely and accurately to the NASD.

Finally, in connection with trading in the market for OnSale, Inc., NASD Regulation found that the execution quality provided by Knight for 645 orders was inconsistent with just and equitable principles of trade. Knight was directed to pay $800,000 plus interest to clients of the firm in connection with the execution of OnSale orders.

"It is critical that no matter how rapid a firm's business growth, the commitment to develop and maintain systems to ensure compliance must keep pace," said Mary L. Schapiro, President of NASD Regulation, Inc. "This is fundamental to the success of our markets and the protection of investors."

As a part of the settlement with NASD Regulation, Knight neither admitted nor denied the findings.

NASD Regulation Charges Tower Square Securities And Files Complaints Against Two Individuals

NASD Regulation, Inc., today announced a disciplinary settlement in which it fined Tower Square Securities $200,000 and directed it to make $4.3 million in restitution to the Jefferson Parish (Louisiana) Public School System's employees deferred compensation plan. In addition, complaints were filed against a former registered representative with Tower and his business partner, Randall J. Veselik. The three enforcement actions involve the mishandling of the investment portfolio of the school system's deferred compensation retirement plan.

The complaint filed against the former Tower registered representative, Kevin B. Dermody, alleges that in July 2000, he entered into a contract to serve as investment manager of the deferred compensation plan operated by the Jefferson Parish school system for the benefit of its employees. At Dermody's direction, the plan liquidated its holdings of approximately $10.8 million in variable annuities, incurring surrender charges of more than $670,000. Proceeds of the annuity liquidation, along with additional plan contributions, were used by Dermody to purchase securities and insurance products including investment contracts issued by Hilltopper Enterprises, L.L.C., a company organized by Dermody and Veselik. Veselik was named in a separate complaint. The majority of plan funds invested with Hilltopper was lost through speculative trading. An independent audit of the plan as of June 30, 2001, revealed that liabilities to plan participants exceeded plan assets by more than $4.2 million.

"The mishandling of investment portfolios is serious misconduct and deserves meaningful and prompt sanctions," said Mary L. Schapiro, President of NASD Regulation, Inc. "We are pleased that the school system is to receive full restitution in this case."

These actions were investigated and filed by the NASD Regulation office in New Orleans and include:

1. Kevin B. Dermody
Case No. C05020001.

Kevin B. Dermody is named in this complaint, which alleges:

a. Fraudulent misrepresentations in connection with the purchase and sale of securities to the plan, including misrepresentations concerning the compensation he would receive, how plan funds would be invested, his prior experience and registration status as an investment advisor, and failure to disclose his interest in Hilltopper Enterprises, L.L.C.;

b. Participation in the sale of securities issued by Hilltopper Enterprises, L.L.C., without prior notice to or approval from Tower Square Securities, Inc.;

c. Guaranteeing customers against losses in connection with proposed sales of securities to the plan; and

d. Failure to respond to a request for information from NASD Regulation.

2. Randall J. Veselik
Case No. C05020002.

Randall J. Veselik is named in this complaint, which alleges:

a. Participation in the sale of securities issued by Hilltopper Enterprises, L.L.C., without prior notice to and approval from the NASD member with which he was associated; and

b. Failure to appear for testimony.

3. Tower Square Securities, Inc.
Case No C05020003.

Tower Square Securities, Inc., settled the following charges without admitting or denying NASD Regulation allegations. The findings include:

a. The firm failed to supervise the activities of Dermody;

b. The firm's procedures prohibit registered representatives from maintaining discretionary authority over customer accounts, yet the firm neglected to investigate Dermody's dealings with the plan after it received documentation reflecting a grant of discretionary authority to Dermody;

c. The firm processed the sale to the plan of a variable life insurance contract issued by an insurance company affiliated with the firm without review and endorsement by a registered principal of the firm;

d. The firm neglected to conduct a review of activity in the plan's account;

e. The firm failed to ensure that an individual working with plan participants was registered with the firm; and

f. The firm failed to establish, maintain, and/or enforce adequate written supervisory procedures relating to review of customer account activity, providing adequate guidelines to registered representatives for recommendations to purchase variable contract products, collection and review of customer suitability information, monitoring of branch office inspections, ensuring that employees are properly registered, monitoring and maintaining copies of electronic correspondence, and monitoring wire transfers.

The firm was censured, fined $200,000, ordered to pay restitution in the amount of $4,365,167.26, and ordered to engage a consultant to make recommendations for the adoption of policies and procedures with respect to the matters addressed in the settlement.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD Regulation 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.

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

NASD Regulation Charges Credit Suisse First Boston With Siphoning Tens Of Millions Of Dollars Of Customers' Profits In Exchange For "Hot" IPO Shares

Firm to Pay $100 Million to Be Split Between the NASD and SEC—Record fine for NASD

NASD Regulation censured Credit Suisse First Boston Corporation (CSFB) and directed it to pay $50 million in monetary sanctions for taking millions of dollars from customers in inflated commissions in exchange for allocations of "hot" Initial Public Offerings (IPOs). The inflated commissions essentially amounted to a "profit sharing" arrangement with CSFB as the IPO shares climbed in the secondary market. As part of the settlement, CSFB will also pay $50 million to the Securities and Exchange Commission.

Following a 10-month investigation, which began in May 2000, NASD Regulation determined that CSFB's IPO profit sharing practice was widespread, occurring between April 1999 and June 2000. The practice affected more than 300 accounts serviced by the firm's Institutional Sales Trading Desk, its Private Client Services (PCS) Group, and its PCS Technology Group. Certain senior managers and other employees of the Equity Sales and Equity Capital Markets Departments directed the practice, instructing CSFB employees to give greater allocations to those accounts who agreed to share their profits with CSFB. During one quarter alone, these inflated commissions on profit-sharing trades accounted for over 22 percent of CSFB's commission revenue.

Robert R. Glauber, Chairman and CEO of the NASD, said of today's action, "The capital formation process will be well served and the investing public treated more fairly as a result of the disciplinary action announced today. Our prompt and forceful action to deal with these serious violations of ethics and NASD Rules brings a rapid close to this chapter. Along with the SEC, we will continue to look at what additional measures, if any, may be necessary to ensure that the IPO allocation and distribution process is fair."

"This conduct was a blatant disregard of NASD Rules and a serious breach of a firm's responsibility not to exploit its position as an underwriter," said Mary L. Schapiro, President of NASD Regulation, Inc. "CSFB's behavior undermines the integrity of the capital-raising process, which is essential to the health of our economy, and shakes the faith of investors in the fairness of the markets."

Schapiro went on to say, "Given the enormous significance and complexity of this case, I am particularly pleased that we were able to work together with the SEC to reach a strong and consistent regulatory response to the conduct at issue."

The Case

As noted in the settlement, CSFB generally charged its clients six cents per share for executing an agency trade in a listed security of 10,000 shares or more. However, during the relevant period, CSFB allocated hot IPO shares to certain customers who, in exchange, paid the firm a portion of their IPO profits disguised as inflated brokerage commissions on transactions unrelated to the IPO. Thousands of transactions were executed with excessive commissions, including hundreds of trades with commission charges of $1 per share or more, with some as high as $3.15 per share. These commissions bore no relationship to the execution of the trade and were paid solely to provide the firm with a share of client profits on hot IPOs. Over 90 percent of the excessive commission transactions executed on the day of, the day before, or the day after a CSFB-managed IPO were done by accounts that were allocated shares by CSFB in that hot IPO.

- For example, during the last quarter of 1999, over 3,000 trades were done at these excessive commission rates, and hundreds of them were executed with a commission rate of $1 per share of more. Customers paid brokerage commissions of over 12 percent of the principal amount of the trade and numerous accounts provided CSFB with unlawful payments of hundreds of thousands of dollars in a single day as part of these profit sharing arrangements.
- For example, after a CSFB customer obtained an allocation of 13,500 shares in the VA Linux IPO, the customer sold two million shares of Compaq and paid CSFB $.50 a share—or $1 million—as a purported brokerage commission. The customer immediately repurchased the shares through other firms at normal commission rates of $.06 per share at a loss of $1.2 million on the Compaq sale and repurchase because of the $1 million paid to CSFB. On that same day, however, the customer sold the VA Linux IPO shares, making a one-day profit of $3.3 million.
- For example, another CSFB account paid a $650,000 commission or $.65 per share for the purchase of 1 million shares of Disney shortly after receiving allocations of IPO shares of both VA Linux and FogDog. The account immediately sold the Disney shares through other broker/dealers at an average price of $.027 per share and sustained a loss of over $680,000 taking into account

the payment of $650,000 to CSFB. Though the trade was not profitable to the client, commissions paid were well above the usual rate and provided CSFB with a share of the client's IPO profits. The client made a profit of $2.35 million on the sale of its VA Linux and FogDog IPO shares.

NASD Regulation found that CSFB established and maintained specific ratios to which the firm expected certain customers to adhere. For example, accounts on a 3:1 ratio were expected to pay one-third of their profits on IPOs to CSFB in the form of commissions on secondary trades. Customers that shared their profits with CSFB would be allocated shares in upcoming IPOs. Those that refused would not receive additional IPO share allocations or would receive smaller allocations. The ratios changed over time, and were different for different customers. In PCS-Tech, located in the firm's California office, CSFB initially required hedge fund accounts to pay the firm 50 percent of profits, later increased to 65 percent. In virtually all events, CSFB expected that these customers would, at a minimum, return one-quarter of IPO profits in commissions on secondary trading.

- For example, when discussing allocations to a particular client, one senior manager wrote to another senior manager: "[Client] is on the 4 to 1 plan, which is generous. This should be really easy and painless * * * [He] simply needs to be told what we have made him vs. what he has paid us. Weekly if required. I think he is behind, i.e. 6 to 1 or 8 to 1, but I am not sure * * *"
- For example, a senior manager told another senior manager what would happen if profits in the account were not paid to CSFB: "Either [client] pays us, or he gets [expletive] nothing." The recipient responds "Agreed."
- For example, a trader in PCS-Tech communicated the following to his supervisor: "Basically, I told [client] that he was very far behind in commissions and that we expect a 65% return on all money that we make him. I said he still owes us for the LNUX deal not to mention the deals that have come since then. I then stated that he can do trades to increase his commissions but will be cut off from any syndicate in the future." The supervisor responded, "Out." The trader replied, "Done."

CSFB created and maintained several reports that were used to record and track the sharing of client profits with the firm. These included the New Issue Performance Report, that detailed the amount the client would have made on each IPO allocation if sold on certain dates. PCS-Tech maintained spreadsheets that detailed specific profits made by each account and the percentage of such profits paid to the CSFB. PCS-Tech also maintained a report entitled the Institutional Account Profit Comparison that compared accounts' monthly profits to secondary commissions paid and calculated a year-to-date percentage.

CSFB managers, brokers, and sales traders participated in each dollar of profit paid to the firm, some directly and some indirectly. One senior manager allocated shares to his own clients who paid over $2.7 million in inflated commission charges. PCS salesmen were paid one-third of the commissions generated by each of their accounts. One PCS broker, for example, earned over $1 million from these excessive commission payments alone. PCS-Tech traders and salesmen were compensated through participation in a bonus pool funded, in part, by commissions generated by these accounts. Others in the firm, including senior managers, institutional sales traders, research sales persons, and Syndicate Desk personnel were paid largely through bonuses based, in part, on commission revenue generated by these firm accounts.

NASD Regulation found that CSFB's practice violated NASD Rules prohibiting member firms from sharing in the profits of client accounts. It also violated NASD Rules that require member firms to disclose information that may be material to, or part of, underwriting arrangements, and which may have a bearing on NASD's review of underwriting terms and arrangements. Here, CSFB failed to file information with the NASD that detailed the excessive commissions and profit-sharing arrangements the firm made for the allocation of IPO shares. CSFB's profit-sharing scheme further violated NASD Rules that require brokerage firms to adhere to just and equitable principles of trade, as well as supervisory and books and records requirements.

The NASD has earmarked funds from the settlement to be used for initiatives focusing on investor protection and education. These initiatives will include technology investments for enhanced surveillance and enforcement, educational materials, and outreach programs for investors.

As part of the settlement, CSFB agreed to engage an Independent Consultant to conduct a review of the implementation of revised procedures regarding the areas of its business that were the subject of the action. In settling this matter, CSFB neither admitted nor denied NASD Regulation's allegations.

This case was investigated by NASD Regulation's Enforcement Department, with assistance from NASD Regulation's Corporate Finance Department. NASD Regulation also acknowledges the substantial assistance and cooperation of the SEC's Northeast Regional Office in this matter.