

# Disciplinary Actions

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## Disciplinary Actions Reported For January

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) 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 December 2001.

### Firms And Individuals Fined

**Investex Securities Group, Inc. (CRD #30094, New York, New York) and Frank John Somma (CRD #1186283, Registered Principal, Holmdel, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Somma, failed to timely report to the NASD statistical and summary information regarding written customer complaints, and failed to establish, maintain, and enforce written supervisory procedures designed to reasonably achieve compliance with the NASD rule regarding customer complaint reporting requirements. **(NASD Case #C10010138)**

**Worldco, L.L.C. (CRD #24673, New York, New York) and Terry Thomas Maloney (CRD #2612384, Registered Principal, Princeton Junction, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. The firm was fined an additional \$175,000. Without admitting or denying the allegations, the respondents consented to the described

sanctions and to the entry of findings that the firm, acting through Maloney, failed to adequately monitor, calculate, and/or enforce day-trading margin maintenance requirements for a prime brokerage account of an institutional customer as required by the NASD, in that the firm failed to monitor and/or calculate whether the account exceeded day-trading buying power. **(NASD Case #C10010142)**

### Firms Fined

**ABN AMRO, Incorporated (CRD #15776, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report, or completely and accurately report, transactions in municipal securities effected with other broker/dealers, municipal securities dealers, or with institutional and retail customers. The NASD also found that the firm failed to provide accurate and timely information regarding municipal securities trades to the National Securities Clearing Corporation (NSCC), which caused its T-Input Percentage to be below the industry average. The findings also stated that the firm failed to report municipal securities transactions with a proper Effecting Broker Symbol (EBS), in that it had a non-compliance percentage that was below the industry average. In addition, the NASD found that the firm failed to obtain and maintain adequate documentation for securities accounts, for which the beneficial owners of the accounts were not identified, in that the accounts were undisclosed principal accounts, and/or accounts of

investment partnerships or corporations that purchased shares of initial public offerings (IPOs), which traded at a premium on the secondary market. Furthermore, the findings stated that the firm failed to establish, maintain, and/or enforce adequate written supervisory procedures to address all areas of its municipal securities business in that the firm's procedures failed to address municipal securities trade reporting and failed to state any procedure to test whether automated systems are properly reporting municipal securities transactions. **(NASD Case #C8A010084)**

**Arcadia Securities, L.L.C. (CRD #44656, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to the Order Audit Trail System (OATS<sup>SM</sup>) any order data for its orders for equity securities traded on The Nasdaq Stock Market.<sup>®</sup> According to the findings, although the firm entered into an agreement with its reporting agent to submit OATS data in accordance with NASD Rule 6955, the firm's reporting agent improperly submitted OATS data under another firm's identification symbol rather than under that of the firm. 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, in that the firm had no procedure by which it regularly monitored its OATS reporting agent to insure proper reporting on behalf of the firm. **(NASD Case #CMS010174)**

**Arnhold and S. Bleichroeder, Inc. (CRD #1101, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in its public quote, when each such order was at a price that would have improved the firm's bid or offer in each security, 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 #CMS010169)**

**Bidwell & Company (CRD #10215, Portland, Oregon)** 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 to achieve compliance with applicable securities laws and regulations concerning OATS. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it captured or entered orders for equity securities traded on The Nasdaq Stock Market into an electronic order routing or execution system, 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, and failed to correct or replace the subject reports when they were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web Site. 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 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 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 #CMS010179)**

**Global Capital Markets, LLC (CRD #16191, Melville, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and the entry of findings that it employed an individual who was statutorily disqualified due to a felony conviction. **(NASD Case #C10010147)**

**Herzog, Heine, Geduld, Inc. (CRD #2186, Jersey City, New Jersey)** 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, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size and thereby failed to honor its published quotation. **(NASD Case #CMS010185)**

**International Securities Corporation (CRD #36023, New York, New York)** submitted a Letter of Acceptance, Waiver, and

Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions to Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) within 90 seconds after execution, constituting a pattern or practice of late reporting without exceptional circumstances. The findings also stated that the firm failed to designate as late transactions in over-the-counter equity securities, Nasdaq SmallCap<sup>SM</sup> securities, and Nasdaq National Market (NNM) securities within 90 seconds after execution to ACT. **(NASD Case #CMS010178)**

**McMahan Securities Co. L.P. (CRD #22123, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$17,500, and required to revise its written supervisory procedures relating to the supervision of its trading desk and compliance with applicable securities laws and regulations concerning ACT compliance, best execution, limit-order protection, order handling, one-percent rule, registration, trade reporting, Small Order Execution System<sup>SM</sup> (SOES<sup>SM</sup>), books and records, locked/crossed markets, SEC 21(a) report issues, short-sale compliance, and front running. 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; failed to provide written notification disclosing to its customer its correct capacity in the transaction; failed to show the correct time of entry and/or time of execution; failed to memorialize the volume of each

component of the executions on brokerage order memorandum; failed to maintain legible time stamps for the execution of orders on the memorandum of brokerage orders; and executed short-sale orders and failed to mark the order tickets properly as short for those orders.

Furthermore, the NASD determined that the firm's written supervisory procedures did not accurately reflect the firm's actual supervisory system that was designed to achieve compliance with respect to the supervision of the firm's trading desk. Specifically, the firm's written supervisory procedures identified inaccurately the person responsible for supervising the firm's trading desk, and the firm supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations. The firm's supervisory system also did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance therewith; 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 #CMS010186)**

**Merrill Lynch Professional Clearing Corp. (CRD #16139, Somerset, New Jersey)** 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 failed to report its short-interest positions in Nasdaq

SmallCap securities to the NASD. **(NASD Case #CMS010184)**

**National Capital, LLC (CRD #26078, Oklahoma City, Oklahoma)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings 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. The firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. 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 firm quote 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 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 #CMS010194)**

**NexTrade, Inc. (CRD #41087, Clearwater, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revised 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

transmit to OATS any order data for its orders for equity securities traded on the Nasdaq Stock Market; failed to transmit to OATS reports containing each applicable item of order information identified in NASD Marketplace Rule 6954; and transmitted to OATS inaccurate reports by transmitting execution reports rather than routing reports with respect to orders for equity securities traded on the Nasdaq Stock Market. 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 OATS. Specifically, the NASD found that 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 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 #CMS010181)**

**Paragon Capital Markets, Inc. (CRD #18555, New York, New York)** 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 as a registered market maker in securities, 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. The firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. 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 firm quote 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 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 #CMS010193)**

**Olympic Trading & Investments, Inc., n/k/a NT Securities LLC (CRD #45694, Monroe, Louisiana)** 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 transmit to OATS reports containing each applicable item of order information identified in NASD Marketplace Rule 6954. 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, regulations, and NASD rules 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 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 #CMS010176)**

**PenStar Trading, LLC (CRD #103719, Sarasota, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it 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, and after 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 reports and, thus, failed to report such information to OATS correctly. The findings also stated that the firm submitted to OATS reportable order events that contained inaccurate, incomplete, or improperly formatted data. In addition, the NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations, and NASD rules 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 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 #CMS010163)**

**Rom-Bo Trading Co. (CRD #37554, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale transactions in certain securities, all of which were NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. **(NASD Case #CMS010159)**

**UBS PaineWebber, Inc. (CRD #8174, Weehawken, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,500, and required to revise its written supervisory procedures relating to transaction reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it incorrectly designated as late, to the Fixed Income Pricing System<sup>SM</sup> (FIPS<sup>®</sup>), transactions in FIPS securities and failed to report the correct time of execution to FIPS for each transaction. The findings also stated that the firm failed to report to FIPS the correct bond identification symbol in one transaction in a FIPS security, double reported a transaction in a FIPS security, and failed to report to FIPS the correct unit price in transactions in FIPS securities and high-yield corporate debt securities. The findings also stated that the firm failed to report to FIPS the correct time of execution in transactions in high-yield corporate debt securities and failed to cancel in FIPS transactions in a high-yield corporate debt security. In addition, the NASD determined that the firm did not have a supervisory system that provided for supervision reason-

ably designed to achieve compliance with respect to the rules concerning the reporting of transactions in high-yield corporate debt securities to the NASD. **(NASD Case #CMS010162)**

**Wilson-Davis & Co., Inc. (CRD #3777, Salt Lake City, Utah)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning SEC Rule 15c2-11 and NASD Marketplace Rule 6740. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published quotations for OTC Equity Securities in quotation mediums that did not have in its records the documentation required by SEC Rule 15c2-11(a), and that it did not have a reasonable basis under the circumstances for believing that the information was accurate in all material respects or did not have a reasonable basis under the circumstances for believing that the sources of the information were reliable. Moreover, the quotations did not represent a customer's indication of unsolicited interest. The findings also stated that the firm failed to file a Form 211 with the NASD at least three business days before the firm's quotations were published or displayed in a quotation medium. The NASD also determined 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 SEC Rule 15c2-11 and NASD Marketplace Rule 6740. Specifically, the NASD found that 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 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 #CMS010182)**

### **Individuals Barred Or Suspended**

**Gilbert Louis Almada (CRD #1176134, Registered Representative, Diamond Bar, 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, Almada consented to the described sanction and to the entry of findings that he used fraudulent and deceptive means to obtain checks totaling \$143,000 from a public customer by falsely telling the customer that he would use the funds to make securities investments on her behalf. The NASD found that Almada never intended to use the funds to purchase the investments on the customer's behalf and instead deposited the funds into a checking account he controlled and used the funds for his own personal use. **(NASD Case #C02010060)**

**James Philip Arndts (CRD #1037280, Registered Representative, Troy, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Arndts consented to the described sanction and to the entry of findings that he sold promissory notes away from his member firm, for compensation, failed to provide his firm with

detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions. **(NASD Case #C8B010030)**

**James Patrick Bauer (CRD #1902320, Registered Representative, Bethlehem City, 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, Bauer consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C9A010046)**

**Joseph Albert Best (CRD #2396728, Registered Representative, Leesburg, 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, Best consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, or authorization from, his member firm. The findings also stated that Best failed to respond to NASD requests for information. **(NASD Case #C07010092)**

**William Lester Bennett (CRD #1112341, Registered Representative, Sanford, 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 two years. In light of the financial status of Bennett, no monetary sanction has been imposed. Without admitting or denying the

allegations, Bennett consented to the described sanction and to the entry of findings that he participated in sales of private securities to public customers without providing prior notice to, or obtaining written authorization from, his member firm.

Bennett's suspension began December 17, 2001, and will conclude at the close of business December 16, 2003. **(NASD Case #C07010079)**

**Kris Paul Binneboese (CRD #2850596, Registered Representative, Hinton, Iowa)** 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, Binneboese consented to the described sanction and to the entry of findings that he willfully failed to disclose a material fact on his Uniform Application for Securities Industry Registration or Transfer (Form U-4). The findings also stated that Binneboese failed to respond to NASD requests for information. **(NASD Case #C04010041)**

**Lee Edward Bridges (CRD #1509183, Registered Representative, McComb, Mississippi)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for one year. In light of the financial status of Bridges, no monetary sanctions have been imposed. Without admitting or denying the allegations, Bridges consented to the described sanction and to the entry of findings that he engaged in business activities outside the scope of his relationship with his member firm without prior written notice to the firm. The findings also stated that Bridges received \$1,000 from a

public customer to open up an Individual Retirement Account (IRA), failed to open the account as instructed and maintain proper control of the funds, and thereby allowed the funds to be misappropriated by an employee.

Bridges' suspension began January 7, 2002, and will conclude at the close of business January 6, 2003. **(NASD Case #C05010021)**

**Michael Alexander Bufano (CRD #3199805, Associated Person, Bronx, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Bufano removed two blank checks from the checkbook of a member firm with which he was associated, filled out each check for \$1,000, and cashed the checks, converting the \$2,000 for his own personal use and benefit without the firm's knowledge, authorization, or consent. The NASD also found that Bufano forged the signature of an authorized signatory employed by the firm on each check. In addition, Bufano failed to respond to NASD requests for information. **(NASD Case #C10010087)**

**Joseph Michael Cileone, III (CRD #4264848, Associated Person, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Cileone reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cileone consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on his Form U-4.

Cileone's suspension will begin January 22, 2002, and will conclude at the close of business February 4, 2002. **(NASD Case #C9A010050)**

**Richard Arlan Corley (CRD #800781, Registered Representative, Wake Forest, 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 10 business days. Without admitting or denying the allegations, Corley consented to the described sanction and to the entry of findings that he was directed by his member firm to open brokerage accounts for each of his customers, to transfer all of their mutual fund and annuity holdings into those accounts within 90 days, and to have his clients complete all required documentation for transactions effected in their accounts. The findings stated that Corley completed the required forms and mailed them to his clients with instructions to sign and return them by a stated deadline but some of his clients failed to return the forms by the deadline. In those instances, Corley signed the client's name on the required forms without authorization.

Corley's suspension began January 7, 2002, and will conclude at the close of business January 18, 2002. **(NASD Case #C07010081)**

**Edward Miller Crowley (CRD #802611, Registered Representative, Toms River, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Crowley consented to the described

sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide his member firm with detailed written notice of the transactions, his role therein, and whether he might receive compensation.

Crowley's suspension began December 17, 2001, and will conclude at the close of business January 15, 2002. **(NASD Case #C9A010048)**

**Christina I. Dharamsingh (CRD #4075197, Registered Representative, Houston, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Dharamsingh reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dharamsingh consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on a Form U-4.

Dharamsingh's suspension will begin January 22, 2002, and will conclude July 21, 2002. **(NASD Case #C06010038)**

**Mary Ann Donaghy (CRD #1468163, Registered Representative, Indianola, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which she 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 Donaghy reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations,

Donaghy consented to the described sanctions and to the entry of findings that she mishandled customer funds by accepting cash from public customers and placing it in a bank account that she controlled.

Donaghy's suspension began December 17, 2001, and concluded at the close of business December 31, 2001. **(NASD Case #C04010042)**

**James Edward Dvorak (CRD #3110894, Registered Representative, Elmhurst, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,559.51, required to disgorge \$4,440.49, plus interest, in commissions to public customers, and suspended from association with any NASD member in any capacity for four months. The fine and disgorge-ment must be paid before Dvorak reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dvorak consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving approval from, his member firms.

Dvorak's suspension began December 17, 2001, and will conclude at the close of business April 16, 2002. **(NASD Case #C8A010083)**

**Jeffrey Lee Farley (CRD #1891240, Registered Representative, Lutherville, Maryland)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Farley received and used for his own benefit funds taken from the account of his member firm. **(NASD Case #C9A000038)**

**Gregory Michael Fabrizio (CRD #2349994, Registered Representative, Old Bridge, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 business days, and required to pay \$8,526, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Fabrizio consented to the described sanctions and to the entry of findings that he engaged in excessive trading and unsuitable recommendations in the account of a public customer in order to increase the buying power of the account and his commissions.

Fabrizzi's suspension began January 7, 2002, and will conclude at the close of business February 19, 2002. **(NASD Case #CAF010029)**

**Oleg Ferdman (CRD #2092949, Registered Principal, Brooklyn, New York) and Gregg Eli Bailer (CRD #2245653, Registered Representative, Brooklyn, New York)** were barred from association with any NASD member in any capacity for failure to appear. Ferdman was also fined \$225,000 and suspended from association with any NASD member in any capacity for 60 days for prohibited conduct during a distribution of securities. Ferdman's fine is due and payable prior to his re-entry into the securities industry. The sanctions are based on findings that Ferdman continuously made a market in, bid for, and induced others to purchase shares and warrants of a security while engaged in distributions of the company's shares. The findings also stated that Ferdman participated in the purchase and resale of shares to public customers while he was still participating in an aftermarket distribution in

violation of the SEC Regulation M. In addition, Ferdman and Bailer failed to respond to NASD requests to appear for scheduled interviews.

Ferdman's and Bailer's bars became effective November 19, 2001. **(NASD Case #CAF000040)**

**Gregory Caulfield Gaydos (CRD #2431680, Registered Representative, South Plainfield, New Jersey)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Gaydos failed to respond to an NASD request for information. **(NASD Case #C9B010049)**

**Frank Joseph Gilday, IV (CRD #2198718, Registered Representative, New Smyrna Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, Gilday consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in a public customer's account. The findings also stated that Gilday, after receiving a complaint from the same customer concerning another transaction, settled the complaint away from his member firm.

Gilday's suspension began January 7, 2002, and will conclude at the close of business February 20, 2002. **(NASD Case #C07010089)**

**Jeffrey Jay Gollehon (CRD #1212338, Registered Representative, Whispering Pines, North Carolina)** 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 required to disgorge \$1,200, plus interest, to public customers. Payment of the fine and satisfactory proof of payment of disgorgement, plus interest, must be made before Gollehon reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gollehon consented to the described sanctions and to the entry of findings that he sold promissory notes, for compensation, to public customers 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.

Gollehon's suspension began December 3, 2001, and will conclude at the close of business January 31, 2002. **(NASD Case #C8B010027)**

**Michael Goras (CRD #2093841, Registered Representative, Hackensack, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Goras reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Goras consented to the described sanctions and to the entry of findings that he engaged in outside business activities without prior written notice to, or approval from, his member firm.

Goras' suspension began January 7, 2002, and will conclude at the close of business January 6, 2003. **(NASD Case #C9B010101)**



**Arturo Elias Gorena (CRD #1941195, Registered Representative, Houston, 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, Gorena consented to the described sanction and to the entry of findings that he guaranteed a public customer's account against loss and represented that he had put a lien on his home as collateral for the guarantee. The findings stated that Gorena prepared correspondence and gave it to a public customer, which included statements that failed to offer a sound basis for evaluating the claim contained within the statement, were unwarranted, and failed to reflect the risks of fluctuating prices and the uncertainty of rates of return and yield. The findings also stated that Gorena failed to respond to NASD requests for information. **(NASD Case #C06010036)**

**William Otis Haff (CRD #2605143, Registered Representative, Dallas, 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, Haff consented to the described sanction and to the entry of findings that he received 401(k) roll-over checks totaling \$3,063.99, made payable to his member firm for the benefit of public customers. The findings stated that Haff failed to remit the checks to his member firm and, instead, forged the customer name to the back of the checks, deposited the checks into accounts he controlled, thereby converting the funds to his own use and benefit

without customer knowledge or consent. **(NASD Case #C05010052)**

**Brian Henry Thomas Harbold (CRD #2903625, Registered Representative, Pittsburgh, Pennsylvania)**

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 30 business days. The fine must be paid before Harbold reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Harbold consented to the described sanctions and to the entry of findings that he sold shares of IPOs to public customers, and in connection with the sale of alleged shares of IPOs, Harbold negligently misrepresented that the firm offering the IPOs had acquired these 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.

Harbold's suspension began December 17, 2001, and will conclude at the close of business January 30, 2002. **(NASD Case #C9A010025)**

**Adam Troy Hepworth (CRD #4180579, Registered Representative, Gilbert, Arizona)**

was fined \$15,000, suspended from association with any NASD member in any capacity for 30 days for providing false responses, and barred from association with any NASD member in any capacity for failing to respond. The fine must be paid before Hepworth reassociates with any NASD member. The sanctions were based on findings that Hepworth

willfully failed to disclose a material fact on a Form U-4 and failed to respond to NASD requests for information.

Hepworth's bar became effective November 20, 2001. **(NASD Case #C3A010020)**

**Paul John Hoepfer (CRD #2318477, Registered Representative, Newport Beach, California)**

was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) affirmed the sanction following appeal of an Office of Hearing Officers decision. The sanction was based on findings that Hoepfer failed to respond to NASD requests for information. **(NASD Case #C02000037)**

**Marshall Eugene Hoggard (CRD #1515720, Registered Representative, Jackson, Tennessee)**

submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hoggard consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. The findings also stated that Hoggard engaged in business activity outside the scope of his relationship with his member firm for which he accepted compensation without prior written notice to his firm. **(NASD Case #C05010050)**

**Donald Erwin Jones (CRD #870822, Registered Representative, Cincinnati, Ohio)**

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 \$130,684.07, plus interest, in restitution to a public customer. Satisfactory proof of payment of restitution, with interest, must be made before Jones reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that he received \$192,684.07 from a public customer and executed a promissory note in favor of the customer for \$190,000. The NASD found that, under the terms of the note, Jones was required to repay the customer \$190,000, plus interest, but repaid only \$62,000 of the principal amount and failed to pay the remaining \$130,684.07 of the funds. In addition, the findings stated that Jones failed to respond to NASD requests for documents and information. **(NASD Case #C8B010029)**

**Emmanuel George Kavokos (CRD #2794227, Registered Representative, West Palm Beach, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Kavokos engaged in unauthorized transactions in the accounts of public customers. In addition, Kavokos made baseless price predictions to public customers in order to induce the customers to purchase securities and failed to respond to NASD requests for information and to appear for an interview. **(NASD Case #C07010045)**

**Lane Marshall Langley (CRD #1044004, Registered Representative, Dana Point, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000

and suspended from association with any NASD member in any capacity for six months. The fine was reduced by \$7,000 in consideration of Langley's voluntary payment to investors, leaving the amount of \$3,000 to be paid to the NASD. Without admitting or denying the allegations, Langley consented to the described sanctions and to the entry of findings that he participated in private securities transactions without prior written notice to, or approval from, his member firm.

Langley's suspension began January 7, 2002, and will conclude on July 6, 2002. **(NASD Case #C3A010050)**

**John Edward Letterio (CRD #1420688, Registered Representative, Marshfield, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Letterio reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Letterio consented to the described sanctions and to the entry of findings that he willfully failed to update his Form U-4 to disclose material information.

Letterio's suspension began January 7, 2002, and will conclude on April 6, 2002. **(NASD Case #C11010037)**

**George Louis Lindenberg (CRD #4249880, Registered Representative, Austin, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid

before Lindenberg reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lindenberg consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on a Form U-4.

Lindenberg's suspension will begin January 22, 2002, and will conclude at the close of business October 21, 2002. **(NASD Case #C06010037)**

**Amit Mathur (CRD #2532770, Registered Principal, Shrewsbury, Massachusetts)** 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, Mathur consented to the described sanction and to the entry of findings that he failed to provide prompt written notice to his member firm of his involvement in a family-owned business, which was outside the scope of his employment with the firm for which he received compensation. The findings also stated that Mathur failed to respond to NASD requests for information. **(NASD Case #C11010038)**

**Elliott Steven Polatoff (CRD #1956658, Registered Representative, Far Rockaway, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$13,000, suspended from association with any NASD member in any capacity for three months, and required to pay \$1,856.25, plus interest, in restitution to member firms. Payment of the fine and proof of payment of restitution shall be prerequisites before reassociating with any NASD member or before

requesting relief from any statutory disqualification. Without admitting or denying the allegations, Polatoff consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered priced limit orders in Nasdaq securities into an electronic communications network (ECN) at prices that he knew would improve the national best bid or offer (NBBO) in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. Furthermore, the NASD found that after entering such orders, Polatoff entered orders of such securities in his trading account because he knew that they would be routed to market makers whose automated execution systems were programmed to transact such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO, thereby enabling him to buy and sell shares of the securities at prices that were lower or higher than he would otherwise have been able to buy or sell shares of the securities. Moreover, the findings stated that immediately after he received the executions of the orders that he had entered in his trading account, Polatoff canceled priced limit orders that he had entered into the ECN.

Polatoff's suspension began January 7, 2002, and will conclude at the close of business April 5, 2002. **(NASD Case #CMS010172)**

**Gary Ronald Putti (CRD #2630113, Registered Representative, Miami, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Putti failed to respond to NASD requests for

information. **(NASD Case #C07010042)**

**Juan Francisco Rivera, Jr., (CRD #2023380, Registered Representative, Allentown, Pennsylvania)** 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 Rivera reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rivera consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on a Form U-4.

Rivera's suspension began December 17, 2001, and will conclude June 16, 2002. **(NASD Case #C9A010049)**

**Quint Edward Robinson (CRD #2719933, Registered Representative, Chesterton, Indiana)** 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 Robinson reassociates with any NASD member, or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Robinson consented to the described sanctions and to the entry of findings that he affixed the signatures of public customers on a document containing mutual fund disclosure information, without the customers' knowledge or consent.

Robinson's suspension began January 7, 2002, and will conclude July 6, 2002. **(NASD Case #C8A010087)**

**Alvaro Fabian Rodriguez (CRD #2076732, Registered Representative, Addison, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was ordered to pay \$8,725 in restitution to a public customer and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Rodriguez consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction without providing written notice to his member firm of the transactions, his role therein, and whether he would receive compensation.

Rodriguez's suspension will begin January 22, 2002, and will conclude at the close of business February 19, 2002. **(NASD Case #C06010039)**

**Louis Ronald Rosenwein (CRD #715625, Registered Representative, Bayside, 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 five business days. Without admitting or denying the allegations, Rosenwein consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of a public customer without prior written authorization from the customer to exercise discretion or having the accounts accepted, in writing, as discretionary by his member firm.

Rosenwein's suspension began January 7, 2002, and concluded at the close of business January 11, 2002. **(NASD Case #C10010139)**

**Ronald M. Roth (CRD #1785602, Registered Representative, Dix Hills, New York)** submitted a Letter of Acceptance, Waiver, and

Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Roth reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Roth consented to the described sanctions and to the entry of findings that he submitted, or caused to be submitted, applications for life insurance that falsely listed on the Agent's Reports and/or Participation Statements accompanying the applications, the names of agents who had purportedly performed work on these policies, when, in fact, the agents identified thereon had not performed any such work. The findings also stated that Roth submitted life insurance applications in the names of fictitious individuals.

Roth's suspension began January 7, 2002, and will conclude at the close of business January 6, 2004. **(NASD Case #C9B010097)**

**Alexander Namsik Scribner (CRD #2525381, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Scribner reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Scribner consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered priced limit orders in Nasdaq securities into an ECN at prices that he knew would improve, and were intended to

improve, the NBBO in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. The findings also stated that after having entered such orders into the ECN, Scribner knowingly and intentionally entered orders to buy shares of such securities in his trading account at his member firm because he knew that they would be routed to market makers whose automated execution systems were programmed to buy such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO. The NASD determined that by knowingly and intentionally engaging in this course of conduct, Scribner bought shares of these securities at prices that were lower than he would otherwise have been able to buy shares of these securities, but for his entry of the orders into the ECN and immediately after he received the execution of the orders that he had entered in his trading account, he intentionally and knowingly canceled priced limit orders that he had entered into the ECN.

Scribner's suspension began November 19, 2001, and will conclude at the close of business January 18, 2002. **(NASD Case #CMS010168)**

**Frank Dennis Schwertfeger (CRD #2692390, Associated Person, Playa Del Rey, 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, Schwertfeger consented to the described sanction and to the entry of findings that he opened securities trading accounts and

effected securities transactions with NASD member firms other than his member firm, without informing his member firm of the existence of each of the foregoing accounts, and failed to disclose to the executing firms that he was associated with a member firm. The findings also stated that Schwertfeger failed to respond to NASD requests for information in a timely manner, and failed and refused to provide full and complete responses to certain requests for information. **(NASD Case #C02010061)**

**Michael Paul Siegel (CRD #2871429, Registered Principal, Manchester Center, Vermont)** 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, Siegel consented to the described sanction and to the entry of findings that he made inappropriate use of funds while registered at a member firm. **(NASD Case #C11010036)**

**Kevin Robert Smith (CRD #1133992, Registered Representative, Marion, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and required to disgorge \$10,240, plus interest, in commissions to public customers. Payment of the fine and satisfactory proof of payment of disgorgement, plus interest, must be made before Smith reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his member firm,

failed to provide his firm with detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Smith's suspension began December 3, 2001, and will conclude at the close of business June 2, 2003. **(NASD Case #C8B010028)**

**Yago Marti Sobrevias (CRD #2642527, Registered Representative, Madrid, Spain)** was fined \$57,750 and barred from association with any NASD member in any capacity. The fine shall be due and payable upon Sobrevias' reassociation with an NASD member. The sanctions were based on findings that Sobrevias engaged in an unauthorized transaction in that he purchased securities for a customer without the prior knowledge, authorization, or consent of the customer. In addition, to conceal the unauthorized purchase, Sobrevias prepared and sent statements to a public customer that falsely reflected the purchase of securities that the customer had requested him to acquire but had not in fact purchased. Furthermore, Sobrevias prepared a letter of guarantee for a public customer guaranteeing the principal value of the customer's portfolio, without the authorization of his member firm, and failed to respond to NASD requests for information. **(NASD Case #C05010027)**

**Richard Allen Solmen (CRD #430310, Registered Representative, Clarkston, Michigan)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,500, which includes disgorgement of commissions earned of \$1,000, and suspended from association

with any NASD member in any capacity for one month. The fine must be paid before Solmen reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Solmen consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for which he received compensation, without providing prompt written notice to his member firm.

Solmen's suspension began January 7, 2002, and will conclude at the close of business February 6, 2002. **(NASD Case #C8A010089)**

**Todd Mitchell Spehler (CRD #1255835, Registered Principal, Bellmore, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spehler consented to the described sanction and to the entry of findings that he failed to testify truthfully, accurately, non-deceptively, and/or completely during an NASD on-the-record interview. The findings also stated that a member firm, acting through Spehler, filed an MC-400 with the NASD that contained false, misleading, inaccurate, or incomplete information regarding an individual's job functions and role during his association with the firm and permitted this individual to become associated with the firm without the permission of the SEC and NASD when the firm and Spehler knew, or should have known, that the individual was subject to statutory disqualification. The NASD also found that the member firm, acting through Spehler, failed to register the individual as a representative when the individual was engaged in activities that

required registration as a representative, and also failed to register the individual as a principal when he was engaged in activities that required registration as a principal.

In addition, the NASD found that the member firm, acting through Spehler, failed to report to the NASD that it had become associated in business and financial activities with an individual subject to statutory disqualification, and failed to file with the SEC an amendment to its Form BD correcting an inaccuracy that the individual had become a control person of the firm. Furthermore, the member firm, acting through Spehler, failed to implement, maintain, and enforce an effective supervisory system that would have enabled the firm to comply with federal securities laws and NASD rules to detect and prevent the above violations. Moreover, the firm, acting through Spehler, failed to establish, maintain, and enforce written procedures to address the qualifications of, and registration process for, associated persons reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. **(NASD Case #C10990158)**

**Todd Mitchell Spehler (CRD #1255835, Registered Principal, Bellmore, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spehler consented to the described sanction and to the entry of findings that a member firm, acting through Spehler, conducted a securities business while failing to comply with the minimum net capital requirements and failed to prepare and maintain accurate books and records. The

findings also stated that the member firm, acting through Spehler, failed to file accurate FOCUS reports with the NASD. **(NASD Case #C1000044)**

**Haskell Paul Stone, III (CRD #3035254, Registered Representative, Stuart, Florida)** was fined \$10,000 and barred from association with any NASD member in any capacity for material misrepresentations and omissions, and fined \$5,000 and suspended from association with any NASD member in any capacity for one year for making unsuitable recommendations. The fine shall be due and payable upon Stone's reassociation with an NASD member. The sanctions were based on findings that Stone made material misrepresentations and omissions when making recommendations to public customers, including baseless price predictions, false statements, and inadequate risk disclosure. In addition, Stone recommended and implemented a course of trading in the account of a public customer that was unsuitable based upon the customer's lack of investment experience and the use of borrowed funds.

Stone's bar was effective December 5, 2001. **(NASD Case #C07010051)**

**Grace Patricia Stoneham (CRD #1068378, Registered Representative, San Francisco, California)** submitted an Offer of Settlement in which she was suspended from association with any NASD member in any capacity for 60 days and ordered to pay \$18,000 in restitution to public customers. In light of the financial status of Stoneham, no fine has been imposed. Satisfactory proof of payment of restitution must be made before Stoneham reassociates with any NASD member or

before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Stoneham consented to the described sanctions and to the entry of findings that she made material misrepresentations and omissions of material fact to public customers. The findings also stated that Stoneham made false price predictions to public customers without any reasonable basis for the prediction and failed to disclose the speculative nature of a stock issuer to the customers.

Stoneham's suspension began December 3, 2001, and will conclude at the close of business January 31, 2002. **(CRD #CAF010009)**

**Robert Edward Stoner (CRD #4205337, Registered Representative, Long Beach, 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 two years. The fine must be paid before Stoner reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Stoner consented to the described sanctions and to the entry of findings that he willfully misrepresented material facts on a Form U-4.

Stoner's suspension began January 7, 2002, and will conclude at the close of business January 6, 2004. **(NASD Case #C02010063)**

**Esa Suonborai (CRD #4258397, Registered Representative, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30

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

Suonborai's suspension will begin January 22, 2002, and will conclude at the close of business February 20, 2002. **(NASD Case #C9A010051)**

**Joseph Cyrus White, III (CRD #2779627, Registered Representative, Marion, 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 90 days, and required to disgorge \$2,000, plus interest, in commissions to public customers. Satisfactory proof of payment of disgorgement with interest must be made before White reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, White consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his member firm and failed to provide his firm with detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

White's suspension is deemed served based upon a suspension imposed by the Ohio Division of Securities. **(NASD Case #C8B010032)**

**Bret Courtney Williams (CRD #1572726, Registered Representative, Manhattan Beach, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000, suspended from association with any NASD member in any capacity for 30 days, and required to pay \$2,543.75, plus interest, in restitution to member firms. The fine must be paid before Williams reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Williams consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered orders in Nasdaq securities into ECNs at prices that he knew would improve the NBBO in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities.

Furthermore, the NASD found that Williams, having entered such orders either into ECNs knowingly and intentionally, routed orders on behalf of his member firm's proprietary account, and sold shares of these securities at prices that were higher than he would otherwise have been able to buy or sell shares of these securities, but from his entry of the orders into the ECNs. Moreover, the findings stated that immediately after he received the executions of the orders that he had entered on behalf of his proprietary account, Williams canceled the orders that he had entered into the ECNs.

Williams' suspension will begin January 21, 2002, and will conclude at the close of business February 19, 2002. **(NASD Case #CMS010166)**

**William Kenneth Wilson (CRD #1370065, Registered Representative, Arlington Heights, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Wilson reassociates with any NASD member or before any request for relief from any statutory disqualification. Without admitting or denying the allegations, Wilson consented to the described sanctions and to the entry of findings that he deposited into an account for his benefit a commission check of \$912.28 for his life insurance policy, which check was payable to another representative, without the knowledge or consent of the representative.

Wilson's suspension began December 17, 2001, and will conclude at the close of business January 30, 2002. **(NASD Case #C8A010085)**

**Rodney Isamu Yamamoto (CRD #4374826, Registered Representative, Bountiful, Utah)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Yamamoto reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Yamamoto consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on a Form U-4.

Yamamoto's suspension began January 7, 2002, and will conclude at the close of business January 6, 2004. **(NASD Case #C3A010047)**

### Individual Fined

**Thomas James Bruch (CRD #1211757, Registered Principal, New Canaan, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$41,000, which includes the disgorgement of a transaction profit of \$39,000. Without admitting or denying the allegations, Bruch consented to the described sanctions and to the entry of findings that in contravention of NASD Rule IM-2110-1, he purchased, or allowed to be purchased, shares of common stock for his account held at a member firm at the public offering price per share. The NASD also found that Bruch engaged in such activities while failing to give written notice to his member firm that he had opened and was maintaining the account. **(NASD Case #C8A010081)**

### Decision Issued

The following decision has been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of December 7, 2001. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

**Vincent Joseph Puma (CRD #2358356, Registered Principal, Freehold, New Jersey)** was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Puma

effected an unauthorized transaction in the account of a public customer.

Puma has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C10000122)**

### **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.

**George Robert Gonzalez (CRD #1266143, Registered Representative, Pompton Lakes, New Jersey)** was named as a respondent in an NASD complaint alleging that he recommended and effected securities transactions in the accounts of public customers without having reasonable grounds for believing the recommendations and subsequent transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs. **(NASD Case #C9B010093)**

**Lawrence Ronald Legind (CRD #2830571, Registered Representative, Corona Del Mar, California)** was named as a respondent in an NASD complaint alleging that he engaged in private securities transactions and outside business activities, and failed to provide prior written notice to, and receive written permission from, his member firm. The complaint

also alleges that Legind guaranteed a customer against loss in the customer's account. **(NASD Case #C02010062)**

**Carl Bernard Mahoney (CRD #2963667, Registered Representative, Northfield, Ohio)** was named as a respondent in an NASD complaint alleging that he received \$10,000 from a public customer for the purchase of an annuity and failed to purchase the annuity or apply the funds in any manner for the benefit of the customer. The complaint also alleges that Mahoney failed to respond to NASD requests for information. **(NASD Case #C8B010024)**

**Jerry Herbert Shulak (CRD #1993089, Registered Representative, Scottsdale, Arizona)** was named as a respondent in an NASD complaint alleging that he engaged in excessive trading in the account of public customers. **(NASD Case #C3A010048)**

**Frank James Varsalona (CRD #3211699, Registered Representative, Margate, Florida)** was named as a respondent in an NASD complaint alleging that he effected, or caused to be effected, unauthorized transactions totaling \$42,479.41 in the accounts of public customers without their knowledge or consent. **(NASD Case #C07010086)**

### **Firms Expelled For Failure To Pay Fines/Costs And/Or Provide Proof Of Payment In Connection With Violations**

**Continuum Capital, Inc.,** Lawrence, New York (November 26, 2001)

**Magnum Securities of New York, Inc.,** Commack, New York (November 26, 2001)

**Tarpon Scurry Investments, Inc.,** Jersey City, New Jersey (November 26, 2001)

### **Firms Suspended For Failure To Supply Financial Information**

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

**Bowling Green Securities, Inc.,** New York, New York (November 30, 2001)

**Century Financial Group, Inc.,** Newport Beach, California (November 30, 2001)

**Deferred Compensation Securities Corporation,** Newport Beach, California (November 30, 2001)

**Walch Financial Services, Inc.,** San Antonio, Texas (November 30, 2001)

### **Firm Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With An Arbitration Award Or A Settlement Agreement**

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



**Miller & Schroeder  
Financial, Inc.,**  
Minneapolis, Minnesota  
(December 5, 2001)

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

**Carlson, Aaron J.,**  
Beaverton, Oregon  
(November 12, 2001)

**Federico, Mark A.,**  
Beacon Hill, Massachusetts  
(November 27, 2001)

**Joslyn, Chad,**  
Macedon, New York  
(November 9, 2001)

**Ly, Danny Ben,**  
North Hollywood, California  
(November 16, 2001)

**Radde, Kevin E.,**  
Gilberts, Illinois  
(November 27, 2001)

**Vitale, David Michael,**  
Pacific Beach, California  
(November 16, 2001)

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

**Leventis, Michael E.,**  
Delray Beach, Florida  
(November 26, 2001)

**Negron, Brandon,**  
Ocoee, Florida  
(November 26, 2001)

**O'Leary, Bryan J.,**  
Dallas, Texas  
(November 26, 2001)

**Simmons, Russell B.,**  
Valrico, Florida  
(November 26, 2001)

**Stewart, Jr., Robert A.,**  
Cincinnati, Ohio  
(November 26, 2001)

**Zborowski, Mark,**  
Lawrence, New York  
(November 26, 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.)**

**Berlin, Gregg Arnold,**  
Lake Almanor, California  
(November 20, 2001)

**Depergola, Joseph,**  
Middle Village, New York  
(November 20, 2001)

**Juravel, Samuel,**  
Savannah, Georgia  
(November 21, 2001)

**Kelley, Michael Allen,**  
Seattle, Washington  
(November 20, 2001)

**Sapienza, Salvatore,**  
Ronkonkoma, New York  
(November 21, 2001)

**Simmons, Monica Lynn,**  
St. Petersburg, Florida  
(November 28, 2001)

**Staltare, Steven C.,**  
Boca Raton, Florida  
(November 20, 2001)

**Thau, Jonathan T.,**  
Sunrise, Florida  
(November 27, 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.

**Lisnoff, Jr., Robert William,**  
Seaford, New York  
(November 9, 2001)

**Scillia, Vincent Michael,**  
Ft. Lauderdale, Florida  
(December 3, 2001 –  
December 6, 2001)

**NASD Regulation, Inc.  
Disciplines Two Ohio  
Brokerage Firms In Muni  
Bond Scheme**

NASD Regulation expelled Michael Patterson, Inc., and barred its owner and President, Michael W. Patterson, for over-charging customers in municipal securities transactions. NASD Regulation also censured Quantum Capital Corporation and suspended former Quantum fixed-income trader Ernest Dahlen for six months for coming between Michael Patterson, Inc.'s, customers and the best available purchase price for municipal bonds. Dahlen's former supervisor, Thomas Dooley was suspended for three months as a principal and fined \$10,000.

According to the settlement, in 1997, Patterson formed his own firm, Michael Patterson, Inc., and entered into an exclusive trading and execution agreement with Quantum, a firm with whom he had previously been employed. As a result of Quantum's involvement in 70 transactions involving municipal bonds issued by North

Central Texas Health Facilities Development Corporation and the Orange County, Florida, Health Facilities Authority, customers failed to receive the best available market prices for the bonds during a seven-month period between 1998 and 1999. In fact, Michael Patterson, Inc.'s, customers paid substantially higher prices for these two bond issues than did customers of other firms for the same bonds during the same period. The firm fraudulently marked up four of the Orange County trades over 11 percent above its contemporaneous cost. Additionally, Michael W. Patterson failed to check available market sources to ensure that the prices his firm charged its customers for the bonds were fair.

Separately, from October of 1999 through May of 2000, Patterson engaged in a scheme in which he purchased Orange County bonds from some retail customers and sold them to others. In 32 trades he charged customers prices ranging from \$61 to \$68, while other dealers were selling the same bonds at dramatically lower prices. NASD Regulation found that this scheme by the firm and Patterson violated the Municipal Securities Rulemaking Board's (MSRB) fair-dealing rule as well as the antifraud provisions of the federal securities laws.

Quantum's settlement acknowledged that it allowed its inventory account to be interpositioned between the customers of Michael Patterson, Inc., and the best available market price for the two municipal bonds. Additionally, Dahlen provided Patterson and his firm with information sheets with pricing information on the Orange County and North Central Texas bonds, but failed to update the information even when it changed significantly. Dooley failed to

ensure that Dahlen's pricing of municipal securities transactions was fair, or that his activities complied with MSRB rules and applicable securities laws.

Since 1998, all municipal firms have been required to report to the MSRB all inter-dealer and customer municipal transactions. NASD Regulation and its Fixed Income Securities Regulation group use municipal securities transaction information as part of its routine examination and oversight of firms, and as part of a continuing process to surveil for patterns in transactions that may indicate rule violations. Michael Patterson, Inc., and Quantum Capital Corporation municipal transaction pricing and best execution/interpositioning practices came the Fixed Income Groups attention as a result of this transaction surveillance.

These actions were investigated by NASD Regulation's Enforcement Department with substantial assistance from the organization's Cleveland District Office, and the Member Regulation Fixed Income Group and represent the continuing effort of NASD Regulation to address violations in the municipal securities marketplace. In settling this matter, the firm and Patterson neither admitted nor denied the allegations. Both firms are located in Columbus, Ohio. This case was originally published in NASD Regulation's Disciplinary Actions in November.

### **NASD Regulation Suspends And Fines Two Former Senior Vice Presidents Of Parker/Hunter Inc. For Insider Trading**

NASD Regulation announced disciplinary actions against John D. Frankola and Richard J. Sporrer, Jr., for insider trading and their former firm, Parker/Hunter

Inc., for not properly supervising its research department. The firm was censured and fined \$100,000. Frankola was suspended for 11 months and fined \$30,000, and Sporrer was suspended for six months and fined \$12,000.

NASD Regulation found that in September 1998, Frankola received material, non-public information about Piercing Pagoda, Inc., from a Parker/Hunter research analyst. The research analyst told him that an individual at Piercing Pagoda had disclosed inside information to her, including the company's projected second quarter loss. After the research analyst provided the same information to Sporrer, who was then Research Director for Parker/Hunter, Sporrer and Frankola met to discuss whether the information conveyed was material, non-public information. Parker/Hunter co-managed Piercing Pagoda's IPO in 1994, and its research department followed the company.

Sporrer subsequently permitted Frankola, who supervised the firm's Asset Management and Portfolio Management Departments, to sell Piercing Pagoda stock in a discretionary account that Frankola managed for Sporrer. Frankola also sold Piercing Pagoda shares held in his personal account, as well as in 10 asset management accounts over which he had discretionary control. By selling the company's stock prior to the public announcement of the projected second quarter loss, Frankola and Sporrer avoided total losses (including the customer accounts) of approximately \$32,000. These actions violated NASD anti-fraud rules.

Federal securities law requires brokerage firms to establish, maintain and enforce written procedur-

es reasonably designed to prevent misuse of material, non-public information by employee and proprietary accounts. To comply with this requirement, firms generally develop and implement policies and procedures to isolate material, non-public information within the research (or other relevant) department to prevent improper use of inside information. These procedures, or "information barriers," generally include physical separation of trading and sales departments, among other measures.

NASD Regulation found that at the time of the trading, Parker/Hunter improperly directed the firm's research analysts to seek advice outside the Research Department, so that during this period, research analysts potentially were disclosing material, non-public information to John Frankola, the head of the firm's Asset Management and Portfolio Management Departments. Additionally, NASD Regulation found that Parker/Hunter failed to establish written supervisory procedures that would require reviews designed to prevent insider trading. Parker/Hunter agreed, as a part of the settlement, to revise its procedures for complying with insider trading laws.

Neither Piercing Pagoda, Inc., nor the Parker/Hunter research analyst is alleged to have engaged in any wrongdoing.

Until their resignations in August 2001, Frankola and Sporrer were senior vice presidents of Parker/Hunter Inc., located in Pittsburgh, PA. In settling the matter, neither the firm nor Frankola and Sporrer admitted or denied the charges. These disciplinary actions are the result of an investigation conducted by NASD Regulation's Market Regulation Department.

## **NASD Regulation Announces Two Enforcement Actions Involving Sales Of Variable Annuity And Life Insurance Contracts**

NASD Regulation announced two separate enforcement actions involving sales of variable annuities and the supervision of sales activities. Two brokerage firms and three individuals were named in disciplinary actions representing the second set of cases resulting from a series of special examinations focusing on the sale of variable contracts conducted by NASD Regulation during 1999 and 2000. Monetary sanctions in the two settled actions totaled \$142,500.

The two cases include findings of violations in the following areas:

- Failure to collect customer financial and other information for use in making suitability determinations, including information regarding variable products being exchanged;
- Deficient supervisory procedures with respect to the suitability of recommendations by registered representatives, including supervisory review of variable product sales and exchanges of one variable annuity product for another; and
- An unsuitable sale and failure to communicate a material fact concerning a variable annuity.

These actions were investigated by NASD Regulation's New Orleans district office, and represent the organization's continuing effort to address problem areas in the sale, distribution, and marketing of variable products.

Earlier this year, NASD Regulation took action against six firms and an individual for various violations in the marketing and sale of

variable annuities, with fines and restitution totaling \$112,000.

Sales of variable products, particularly tax-free exchanges, have increased dramatically over the last several years. To help investors evaluate the factors involving replacement sales, NASD Regulation issued an Investor Alert in February ([http://nasdr.com/alert\\_02-01.htm](http://nasdr.com/alert_02-01.htm)), providing investors with key points to review before replacing a variable product. NASD Regulation has also offered guidance to its members on the proper sale of variable products through the issuance of *Notices to Members 99-35* and *00-44*, and an article in the Summer 2000 issue of the *Regulatory and Compliance Alert*. These information pieces give firms and their brokers sound guidance on how to sell variable annuity and life contracts, and evaluate whether they are suitable investments for particular investors.

## **VARIABLE ANNUITY ENFORCEMENT ACTIONS:**

### **1. CUNA Brokerage Services, Inc.—Case No. C05010054**

CUNA Brokerage Services, Inc., settled the following charges without admitting or denying NASD Regulation allegations. The findings include:

The firm, through its compliance officer Campbell D. McHugh, failed to establish, maintain, and enforce adequate written supervisory procedures relating to the sale of variable annuities and variable universal life insurance in the areas of suitability of recommendations, review of new business for suitability, training and supervision of principals, and the investigation and reporting of customer complaints.

The firm failed to maintain certain records recording the rationale for the exchange of variable products.

The firm failed to demonstrate that reasonable efforts had been made to obtain certain customer information needed for suitability determinations.

The firm, through Daniel L. Bernal, recommended a variable annuity purchase without having reasonable grounds for believing the transaction was suitable.

The firm, through Christian C. Zernich, failed to communicate a material fact to a customer in connection with a sale of a variable annuity contract.

The firm was censured and fined \$100,000, of which \$25,000 was assessed jointly and severally against the firm and McHugh. McHugh was also suspended for 45 days in any principal capacity. Bernal was fined \$5,000 and suspended for 10 days in all capacities, while Zernich was fined \$2,500 and suspended five days in all capacities.

## **2. Mutual Service Corporation— Case No. C05010053**

Mutual Service Corporation, Inc., settled the following charges without admitting or denying NASD Regulation allegations. The findings include:

The firm failed to establish, maintain, and enforce adequate written supervisory procedures relating to the following aspects of variable annuity and life insurance sales:

The manner in which home office principals were to review and approve the suitability of variable product sales by principals in its offices of supervisory jurisdiction.

The manner in which the activity of variable product surrenders and product cancellations were to be monitored.

The manner and purpose in which exception reports were to be utilized by the firm in supervising variable product business.

The procedure by which representatives of the firm were to effect variable life insurance transactions.

The manner in which principals of the firm were to review, approve, and otherwise supervise variable life insurance transactions.

The manner in which a supervisory review was to be conducted of the suitability of the allocation of premium payments to investment portfolios or sub-accounts, in relation to customers' investment objectives.

The firm failed to establish and maintain a supervisory system for retaining information necessary for the review of exchange transactions executed by principals in offices of supervisory jurisdiction.

The firm failed to evidence the review of the initial allocation of premium payments to investment portfolios or sub-accounts.

The firm failed to make reasonable efforts to obtain customer information for making suitability determinations. This information includes customer net worth, risk tolerance, and information on products being exchanged, such as surrender charges and the allocation of funds in sub-accounts.

The firm was censured and fined \$35,000.