

Disciplinary Actions

Disciplinary Actions Reported For August

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of July 2001.

Firm Expelled

Royal Hutton Securities Corp. (CRD #14489, New York, New York) submitted an Offer of Settlement in which the firm was fined \$20,000 and expelled from NASD membership. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in stock manipulation and fraudulent sales practices. The firm, directly and/or indirectly, singly and in concert, by use of the means or instrumentalities of interstate commerce, or of the mails, and in connection with the purchase and sale of securities, knowingly or recklessly employed a device, scheme, or artifice to defraud, made untrue statements of material fact and/or omitted material facts necessary to make statements made, in light of the circumstances, not misleading, and/or engaged in acts, practices, or courses of business which operated as a fraud or deceit upon persons. The findings also stated that the firm, directly or indirectly, controlled registered representatives and principals that, in connection with the sale of house stocks, made material misrepresentations, received excessive commissions, failed to inform purchasers that they were receiving these excessive

commissions, and discouraged the sale of the stocks. In addition, the NASD found that the firm knowingly allowed representatives and principals to withhold material information from public customers including the nature of the risk of the investment, the amount of commission the broker would receive in connection with the transaction, and the limitations on the circumstances under which such securities could be sold. **(NASD Case #CAF000042)**

Firm Expelled, Individual Sanctioned

Global Equities Group, Inc. (CRD #34039, New York, New York) and Igor Eric Kuvykin (CRD #2268044, Registered Representative, Brooklyn, New York). The firm was fined \$1,142,330, expelled from NASD membership, and ordered to disgorge \$872,330 in ill-gotten gains. Kuvykin was fined \$160,000 and barred from association with any NASD member in any capacity. The fines must be paid before the respondents' reentry into the securities industry. The sanctions were based on findings that the firm, acting through Kuvykin and others, operated as a "boiler room" and caused the firm's sales force to use high-pressure sales tactics, to make material misstatements of fact including baseless price and performance predictions, and to withhold material information from customers purchasing securities. The findings also stated that the firm, acting through Kuvykin and others, maintained a policy that required the firm's retail customers who purchased a security in an initial public offering (IPO) to purchase approximately three common stock shares for every one warrant and failed to disclose the policy in the prospectus and

other documents delivered to customers. The firm, acting through Kuvykin and others, also allocated IPO warrants to the firm's sales force as a gift, bonus, or incentive to sell the IPO securities, and failed to require the brokers to disclose this fact to the customers.

The NASD found that the firm, acting through Kuvykin and others, acted as a market maker in, and entered bids for, IPO common stock and warrants while the firm was acting as a distribution participant. In addition, the findings stated that the firm, acting through an individual, violated the Free-Riding and Withholding Interpretation and executed the purchase of shares and warrants in the accounts of public customers who sold the stock and warrants in the immediate aftermarket for profit. The NASD also found that the firm permitted individuals to engage in activities that required registration with the NASD even though the individuals were not properly registered with the NASD and Kuvykin engaged in activities requiring registration as a general securities principal even though he was not registered as such with the NASD. Furthermore, the NASD found that the firm, acting through individuals, failed to establish, maintain, and enforce written supervisory procedures pertaining to the firm's underwriting and retail brokerage activities and the qualifications of and registration process for associated persons. Moreover, the NASD found that Kuvykin failed to testify truthfully during NASD on-the-record interviews. **(NASD Case #C10000029)**

Firms Fined, Individuals Sanctioned

Grady and Hatch & Company, Inc. (CRD #14262, Staten Island, New York) and Robert Edward Grady (CRD #226921, Registered Principal, Dix Hills, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and the firm and Grady were fined \$10,000, jointly and severally. Grady was also suspended from association with any NASD member in any principal 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 the firm, acting through Grady, misrepresented its net capital and failed to maintain sufficient net capital while conducting a securities business. The findings also stated that the firm, acting through Grady, failed to adopt, maintain, and enforce written supervisory procedures adequately designed to ensure compliance with the Securities and Exchange Commission (SEC) net capital rule.

Grady's suspension began August 6, 2001, and concluded at the close of business August 10, 2001. **(NASD Case #C10010089)**

Joseph Dillon & Company, Inc. (CRD #35220, Great Neck, New York), Steven Richard Jaloza (CRD #1320831, Registered Principal, Muttontown, New York), Patrick Gerard Hennessy (CRD #1666607, Registered Principal, Aberdeen, New Jersey) submitted Offers of Settlement in which the firm was censured, fined \$25,000 jointly and severally with Jaloza, and ordered to disgorge \$125,000, jointly and severally with Jaloza to the NASD. Jaloza was suspended from association with any NASD

member in any capacity for 90 days and barred from association with any NASD member in any registered principal capacity. In light of his financial status, Hennessy was fined \$5,000, and he was suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm conducted an IPO for which the registration statement disclosed two selling shareholders whose shares were subject to a two-year lockup agreement that could only be released at the sole discretion of the firm. The findings stated that the firm and Jaloza released the lockup agreements, engaged in a distribution of the selling shareholders' shares, and repurchased and resold shares in a second distribution immediately upon the beginning of aftermarket trading that made representations in the prospectus materially misleading. In addition, the NASD found that the firm and Jaloza failed to immediately amend the prospectus to disclose the release of the lockup agreements, failed to disclose that the firm received compensation for the sale of shares, and failed to inform the NASD that the firm would be receiving compensation in connection with the distribution of the selling shareholders' shares. The firm, acting through another individual, sold warrants of the IPO to an immediate family member in violation of the Free-Riding and Withholding Interpretation. Furthermore, the NASD found that the firm and Jaloza failed to establish a supervisory system that included written procedures to achieve compliance with applicable securities laws and regulations regarding sales

activities. The findings also stated that Hennessy consented to the described sanctions and to the entry of findings that he published quotations for, and bid for, shares of the IPO during distributions in violation of SEC and NASD rules and regulations.

Jaloza's bar in any registered principal capacity became effective June 25, 2001. Jaloza's suspension began August 6, 2001, and will conclude November 3, 2001. Hennessy's first five-day suspension began July 23, 2001, and concluded at the close of business July 27, 2001. Hennessy's second five-day suspension will begin August 20, 2001, and will conclude at the close of business August 24, 2001. (NASD Case #CAF000040)

Protective Group Securities Corporation (CRD #6757, Minneapolis, Minnesota) and Michael Frederick Flannigan (CRD #1135700, Registered Principal, Excelsior, Minnesota) were fined \$25,000, jointly and severally, and Flannigan was barred from association with any NASD member in any supervisory capacity. The National Adjudicatory Council (NAC) affirmed the sanctions following appeal of an Officer of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm, acting through Flannigan, allowed individuals registered with another member firm and not registered with Protective to engage in Protective's securities business and exercised discretionary authority for customer accounts by following directions from registered representatives of another member firm with respect to trading in Protective's customer accounts.

On July 2, 2001, Flannigan appealed the NAC's decision to the Securities and Exchange Commission and requested that the Commission stay imposition of the sanctions imposed and publication of the NAC's decision. The SEC denied the stay request. The supervisory bar therefore was effective as of the issuance of the NAC's decision on June 4, 2001. (NASD Case #C8A980097)

Firms And Individuals Fined

Continuum Capital, Inc. (CRD #29864, New York, New York) and Mark Abraham Zborowski (CRD #1325328, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$22,630, 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 Zborowski, engaged in an options business with public customers without qualifying an individual at the firm as a registered options principal. The findings also stated that the firm, acting through Zborowski, failed to submit an amended Form BD with the NASD following the termination of its Limited Principal – Financial and Operations (FINOP) within 30 days and failed to designate a new FINOP. The NASD also found that the firm, acting through Zborowski, permitted an individual to perform functions requiring registration as a registered representative while such registration was inactive for failing to complete the Regulatory Element of the Continuing Education Program within the prescribed time period. Furthermore, the NASD found that the firm, acting through Zborowski, allowed another individual to

engage in a securities business while not being properly registered with the firm. (NASD Case #C10010077)

Falkin Platnick Securities Company, Inc. (CRD #22367, Cranford, New Jersey) and Albert Barry Platnick (CRD #715612, Registered Principal, Livingston, New Jersey) 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, acting through Platnick, engaged in a private placement offering on a best-efforts basis without establishing an escrow account and transmitted investor funds to the general partner of the private placement offering prior to meeting the minimum contingency set forth in the offering memorandum. The findings also stated that the firm, acting through Platnick, conducted a securities business while failing to maintain its minimum net capital. (NASD Case #C10000092)

Harrison Douglas, Inc. (CRD #16515, Denver, Colorado) and Douglas Wayne Schriener (CRD #1140409, Registered Principal, Aurora, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,500, jointly and severally. The firm was also fined an additional \$7,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm sold shares of an IPO to residents of Missouri when the IPO was not registered for sale in Missouri. The NASD found that the firm, acting through Schriener, completed a post-IPO

questionnaire for the lead underwriter that failed to disclose that shares sold to Missouri residents were inaccurately included as sales to Colorado residents. The findings also stated that the firm and Schriener failed to promptly file an amended Form BD and amended Form U-4s to reflect a final disciplinary action and bankruptcies. Furthermore, the NASD found that the firm, acting through Schriener, had no written needs analysis or written training plan with respect to the Firm Element of Continuing Education—Membership and Registration Rule. **(NASD Case #C3A010023)**

Ni Securities Corp. (CRD #30444, Akron, Ohio) and Michael Edmond Zulick (CRD #1834341, Registered Principal, Akron, Ohio) were fined \$10,747.67, jointly and severally. Zulick was also fined an additional \$1,500. The sanctions were based on findings that the firm permitted Zulick to act in a capacity requiring registration when his registration had been deemed inactive pending completion of the Continuing Education Regulatory Element requirements. The findings also stated that Zulick executed securities transactions during a period of non-compliance with the Continuing Education Regulatory Element requirements. **(NASD Case #C8B010004)**

Pond Equities, Inc. (CRD #30934, Brooklyn, New York) and Ezra Yehuda Birnbaum (CRD #1553347, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. The firm was also fined an additional \$7,000. Without admitting or denying the allegations, the respondents consented to the described

sanctions and to the entry of findings that the firm, acting through Birnbaum, failed to enforce its written supervisory procedures in that it could not provide evidence that when customers made checks payable to the firm, the firm informed the customers in writing of the requirement to make checks payable to the clearing firm in the future. The findings also stated that the firm failed to show the correct time of execution on the order memoranda in transactions. In addition, the NASD found that the firm executed short sale transactions in Nasdaq National Market® (NNM) securities and failed to report the transactions to Automated Confirmation Transaction ServiceSM (ACTSM), with a short sale modifier. Furthermore, the findings stated that the firm, acting through Birnbaum, failed to report customer complaints to the NASD as part of the Statistical and Summary Reporting requirement. **(NASD Case #C10010081)**

Preferred Trade, Inc. (CRD #10993, San Francisco, California) and Glenn Scott McCrae (CRD #2158955, Corte Madera, California) submitted an Offer of Settlement in which the firm was censured and fined \$50,000, and McCrae was censured and fined \$10,000. McCrae must pay the fine before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm and McCrae permitted an individual to act as a representative of the firm without being registered with the NASD. The findings also stated that the firm failed to report transactions in, NNM securities within 90 seconds and failed to

designate those transactions as late, failed to accurately record the time of execution in order tickets and effected transactions without recording the time of execution on the order tickets, and effected transactions without making a record of the terms and conditions of the transactions. The NASD also determined that the firm effected transactions in NNM securities without making a record of the time of entry and whether the transactions were long or short, effected transactions in NNM securities without making a record of the contra side of the transactions, recorded an incorrect price or number of shares for the transactions, and failed to report the contra side of the trade to ACT. Furthermore, the NASD found that the firm effected transactions in NNM securities and failed to report the transactions. **(NASD Case #C01010001)**

Firms Fined

Alpine Securities Corporation (CRD #14952, 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 with respect to firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that as a registered market maker, it failed to execute orders presented to the firm at the firm's published bid or offer in an amount up to its published quotation size and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations

concerning firm quotations.
(NASD Case #CMS010103)

Cathay Financial LLC (CRD #30065, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. The findings also stated that the firm executed short sale orders in certain securities and failed to annotate an affirmative determination prior to executing such transactions, and the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning short sales. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person(s) responsible at the firm to ensure compliance with the applicable rules, a statement of the step(s) that such person(s) should take to ensure compliance therewith, and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS010104)**

Crowell, Weedon & Co. (CRD #193, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to submit revised written supervisory procedures with respect to compliance with the firm quote rule to the NASD. 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, failed to execute orders, and thereby, failed to honor its published quotation. The NASD also found that the firm failed to establish, maintain, and enforce written supervisory procedures. **(NASD Case #CMS010099)**

Dean Witter Reynolds, Inc. (CRD #7556, 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 as a market maker in securities, without making reasonable efforts to avoid a locked market by executing transactions with all market makers whose quotations would be locked, entered bid or asked quotations in The Nasdaq Stock Market® that caused a locked market condition to occur in each instance. **(NASD Case #CMS010102)**

Hold Brothers On-Line Investment Services, Inc., f/k/a, On-Line Investment Services (CRD #36816, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$41,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it forwarded commission checks to an individual who was not registered with the firm in any capacity and who performed various services for the firm. The findings also stated that the firm prepared and

maintained a press release on its Web page that contained an exaggerated, unwarranted, and misleading statement regarding its day traders' success rate without any documentation to support the statement. The NASD also determined that the firm failed to report sell transactions as short sales and failed to supervise the activities of an individual adequately and properly in that the individual was given checks based on the commissions earned while not being required to become registered with the firm. **(NASD Case #C8A010034)**

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 \$2,500, jointly and severally, and fined an additional \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through an individual, it filed an inaccurate FOCUS report and failed to maintain sufficient net capital while conducting a securities business. The findings also stated that the firm failed to utilize the services of an independent public accountant to audit its year-end fiscal reports filed with the NASD. Furthermore, the NASD found that the firm failed to report to ACT transactions within 90 seconds of execution and failed to designate transactions as late. In addition, the NASD found that the firm failed to correctly report to ACT whether it acted as a principal or as an agent in transactions and failed to establish a Continuing Education Program (Firm Element) for its registered employees. **(NASD Case #C10010088)**

New World Securities, Inc. (CRD #14694, Garden City, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$18,500, and required to revise its written supervisory procedures with respect to securities laws and regulations and NASD rules concerning short sales. 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 make an affirmative determination prior to executing such transactions and failed to properly mark the order tickets as short for those orders. The findings also stated that the firm failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity, executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier, and 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. Furthermore, the findings stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning short sales. **(NASD Case #CMS010101)**

Penson Financial Services, Inc. (CRD #25866, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that as a market maker

in securities, 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 asked quotations in The Nasdaq Stock Market that caused a locked or crossed market condition to occur in each instance. **(NASD Case #CMS010081)**

Pruco Securities (CRD #5685, Newark, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to file with the NASD customer complaints that were required to be reported in a timely manner. According to the findings, approximately 25 of these customer complaints incorrectly identified the dates on which the firm initially became aware of the subject complaints. The findings also stated that the firm failed to establish, maintain, and enforce procedures (including written supervisory procedures) reasonably designed to ensure compliance with the NASD customer-complaint-reporting requirement. **(NASD Case #C9B010051)**

Redwood Brokerage Services, Inc. (CRD #39416, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to transmit to the Order Audit Trail System (OATSSM) reports

containing each applicable item of order information identified in NASD Marketplace Rule 6954. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations, and NASD rules concerning OATS. **(NASD Case #CMS010076)**

R.J. Steichen & Company, n/k/a Miller Johnson Steichen Kinnard, Inc. (CRD #694, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$19,505. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it permitted individuals to conduct a securities business and to act in registered capacities when their registrations had lapsed for non-compliance with the Regulatory Element of the Continuing Education Requirement. **(NASD Case #C04010027)**

Robb, Peck, McCooley Clearing Corporation (CRD #7432, New York, New York) submitted an Offer of Settlement in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in NNM securities and transactions in CQS securities to ACT within 90 seconds of execution, and failed to designate each of these transactions as late by appending the ".SLD" modifier. The findings also stated that the firm engaged in a pattern and practice of late trade reporting without exceptional circumstances, and failed to establish, maintain, and enforce written supervisory procedures reasonably designed

to achieve compliance with applicable securities laws, regulations, and NASD rules concerning trade reporting. **(NASD Case #CMS000057)**

Southwest Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$39,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to display immediately customers' limit orders in Nasdaq securities in its public quotation and the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations. Furthermore, the NASD found that the firm, as a market maker in securities, failed to execute orders upon presentment and thereby failed to honor its published quotation, and 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 or maintained a bid in The Nasdaq Stock Market, Inc. during the period of time that secondary trading commenced immediately following the completion of an IPO of the subject security which caused a locked or crossed market condition to occur in each instance. **(NASD Case #CMS010097)**

Wien Securities Corporation (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to revise its written supervisory procedures concerning ACT short sale reporting, Small Order Execution SystemSM (SOESSM) trading, locked and crossed markets, information barriers, OATS, and the regular and rigorous assessment of competing markets. 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 and failed to report each of these transactions to ACT with a short sale modifier. The findings also stated that the firm failed to immediately display customer limit orders in its public quote, when each such order was at a price better than its public quote, or at a price equal to its public quote when such quote was priced equal to the national best bid or offer in such security and that order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. Furthermore, the NASD found 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 ACT short sale reporting, SOES trading, locked and crossed markets, information barriers, OATS, and the regular and rigorous assessment of competing markets. **(NASD Case #CMS010078)**

Wise Planning Corporation (CRD #899, Hicksville, 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 it maintained representative registrations for individuals who were no longer active in the firm's securities business. **(NASD Case #C10010079)**

Individuals Barred Or Suspended

Robert Stephen Ambrozy (CRD #1736286, Registered Representative, Cranford, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, which includes the disgorgement of \$6,800 in commissions, and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Ambrozy reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ambrozy consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide written notification to, or obtain written approval from, his member firm.

Ambrozy's suspension began August 6, 2001, and will conclude at the close of business February 5, 2003. **(NASD Case #C10010086)**

Robert Ira Ballon (CRD #1652114, Registered Representative, Escondido, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$9,050, and suspended from association with any NASD member in any capacity for 10

business days. Without admitting or denying the allegations, Ballon consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm prior to engaging in such activities.

Ballon's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. **(NASD Case #C02010010)**

Saleem Barkat (CRD #1571045, Registered Representative, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,800, suspended from association with any NASD member in any capacity for one month, and required to demonstrate that he has paid \$7,200 in restitution. Without admitting or denying the allegations, Barkat consented to the described sanctions and to the entry of findings that he participated in private securities transactions for compensation and failed to provide written notification to, or obtain written approval from, his member firm.

Barkat's suspension began August 6, 2001, and will conclude at the close of business September 5, 2001. **(NASD Case #C3A010022)**

Radcliff St. Aubyn Bent (CRD #1306247, Registered Representative, Colts Neck, New Jersey) was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 business days for failing to execute a sell order, fined \$70,000 and barred from association with any NASD member in any capacity for effecting unauthorized transactions in public customer accounts, and barred from association with any

NASD member in any capacity for testifying falsely in an NASD on-the-record interview. Bent was also ordered to pay \$175,605, plus interest, in restitution to public customers. The fines are due and payable when and if Bent seeks to reenter the securities industry. The restitution amounts shall become due and payable on a date set by the NASD.

The sanctions were based on findings that Bent executed unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Bent failed to execute a customer sell order and provided false testimony during an NASD on-the-record interview.

Bent's bar was effective July 2, 2001. **(NASD Case #C10000026)**

Richard Alan Blake (CRD #813822, Registered Representative, DeKalb, Illinois), Frank Thomas Devine (CRD #2035363, Registered Representative, Oswego, Illinois), and Timothy James Fergus (CRD #1995006, Registered Representative, Lisle, Illinois). Blake was fined \$35,000, suspended from association with any NASD member in any capacity for 180 days, and required to requalify by exam as an investment company and variable contracts products representative. Devine was fined \$34,825.42, suspended from association with any NASD member in any capacity for 90 days, and required to requalify by exam as an investment company and variable contracts product representative. Fergus was fined \$8,000, suspended from association with any NASD member in any capacity for 60 days, and required to requalify by

exam as an investment company and variable contracts product representative. The NAC imposed the sanctions following a call for review of an OHO decision. The sanctions were based on findings that Blake, Devine, and Fergus sold securities in the form of promissory notes without providing prior written notice to, and receiving approval from, their member firm.

Devine has appealed this action to the SEC and the sanctions against him are not in effect pending consideration of the appeal. Fergus' suspension began July 2, 2001, and will conclude at the close of business August 30, 2001. Blake's suspension began July 2, 2001, and will conclude at the close of business December 31, 2001. **(NASD Cases #C8A990025, C8A990026, and C8A990027)**

Robert Orville Boettcher (CRD #1839053, Registered Representative, Elgin, Illinois) 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 provide proof of payment of restitution for commissions earned totaling \$8,183, plus interest, to customers with any submission to re-enter the securities industry. Without admitting or denying the allegations, Boettcher consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm prior to engaging in such activities. **(NASD Case #C8A010031)**

Patrick Andrew Brady (CRD #2536672, Registered Representative, Toledo, Ohio) was fined \$42,943.31 and

suspended from association with any NASD member in any capacity for one year for engaging in private securities transactions, and barred from association with any NASD member in any capacity for failure to respond. The fine is due and payable prior to Brady's re-entry into the securities business. The sanctions are based on findings that Brady engaged in private securities transactions for compensation without giving his member firm prior written notice and without receiving prior written approval. The findings also stated that Brady failed to respond to NASD requests for information.

Brady's bar became effective July 16, 2001. **(NASD Case #C8B000013)**

Henry Dwayne Bumpers (CRD #2830074, Registered Representative, Tigard, Oregon) 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, Bumpers consented to the described sanction and to the entry of findings that he engaged in securities transactions in the accounts of public customers without the knowledge or consent of the customers and in the absence of written or oral authorization to exercise discretion in the accounts. The findings also stated that Bumpers, pursuant to verbal authority, exercised discretion to purchase securities for the accounts of public customers without prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm. **(NASD Case #C3B000016)**

William Keith Bunn (CRD #35193, Registered Supervisor, Deerfield Beach, Florida) submitted an Offer of Settlement

in which he was suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Bunn, no monetary sanction has been imposed. Without admitting or denying the allegations, Bunn consented to the described sanction and to the entry of findings that he failed to disclose to his member firm, orally or in writing, his efforts to compensate a public customer for losses in her account.

Bunn's suspension began August 6, 2001, and will conclude at the close of business September 4, 2001. **(NASD Case #C07010023)**

Stephen J. Carrione (CRD #1603335, Registered Representative, Bloomfield, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Carrione consented to the described sanctions and to the entry of findings that he exercised control over the joint account of public customers and effected numerous securities transactions in the account in a manner that was inconsistent with the customers' investment objectives. The findings also stated that Carrione, pursuant to verbal authority, exercised discretion in the joint accounts of public customers without having obtained prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm.

Carrione's suspension began July 16, 2001, and will conclude at the close of business August 14, 2001. **(NASD Case #C9B010050)**

Mark Joseph Chavez (CRD #2411119, Registered Principal, Boca Raton, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Chavez failed to respond to NASD requests for information. **(NASD Case #C07000084)**

Mario Joseph Coniglione (CRD #2423861, Registered Representative, West Orange, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Coniglione failed to respond to questions during an NASD on-the-record interview. **(NASD Case #C10000140)**

Vincent Peter Coniglione (CRD #1756741, Registered Principal, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Coniglione failed to testify during an NASD on-the-record interview. **(NASD Case #C10000116)**

John Joseph Conte (CRD #2528692, Registered Representative, Norristown, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Conte exercised discretion in the account of a public customer without prior written authorization from the customer and prior written acceptance of the account as discretionary from his member firm. The findings also stated that Conte failed to respond to NASD requests for information. **(NASD Case #C9A000046)**

Edwin Arthur Dolan, Jr. (CRD #69506, Registered Principal, Parsippany, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he

was fined \$8,500, jointly and severally, and suspended from association with any NASD member in any principal capacity for 10 days. Without admitting or denying the allegations, Dolan consented to the described sanctions and to the entry or findings that a member firm, acting through Dolan, permitted an individual to act as a general securities representative and equity trader while failing to have registered in such capacities. The findings also stated that a member firm, acting through Dolan, failed to maintain written supervisory procedures mandating that the firm complete an annual training needs analysis, develop a written training plan, and implement the plan to achieve compliance with the Firm Element of the NASD Continuing Education Rules. The findings also stated that a member firm, acting through Dolan, failed to complete an annual training needs analysis, failed to develop a written training plan, and failed to implement a written training plan to achieve compliance with the Firm Element of the Continuing Education Rules.

Dolan's suspension will begin August 20, 2001, and will conclude at the close of business August 29, 2001. **(NASD Case #C9B010057)**

Sean Patrick Dugan (CRD #1734681, Registered Representative, Davie, 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, Dugan consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm to participate in

such transactions. **(NASD Case #C07010049)**

Theodore Dack Fahman (CRD #2023322, Registered Principal, Fountain Valley, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from associating with any NASD member as a financial and operations principal, and suspended from association with any NASD member in any capacity for 45 business days. In light of the financial status of Fahman, a fine of \$3,500 has been imposed. Without admitting or denying the allegations, Fahman consented to the described sanctions and to the entry of findings that a former member firm, acting through Fahman, conducted a securities business while failing to maintain minimum required net capital.

Fahman's suspension began July 16, 2001, and will conclude at the close of business September 16, 2001. **(NASD Case #C02010028)**

Richard Thomas Geck (CRD #2402873, Registered Principal, Toms River, 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, Geck consented to the described sanction and to the entry of findings that he converted at least \$44,040.05 in customer funds and used the funds for his own use and benefit without the customers' knowledge or consent. **(NASD Case #C9B010059)**

Joseph Gaetano Gerace (CRD #1060223, Registered Representative, St. John's, Antigua, West Indies) was fined \$10,000 and suspended from association with any NASD member in a securities principal capacity for one year. The NAC

affirmed the sanctions following appeal of an OHO decision. The sanctions were based on findings that in connection with a contingency offering, Gerace permitted his firm to fail to establish an escrow account to protect investors' funds received pursuant to the offering. Gerace also failed to sell the minimum amount of securities to bona fide public investors prior to delivering the investors' funds to issuers of the offering.

Gerace's suspension began July 2, 2001, and will conclude at the close of business June 28, 2002. **(NASD Case #C02990022)**

Darren Scott Goldberg (CRD #2857732, Registered Representative, Suffern, 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 10 business days. The fine must be paid before Goldberg reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Goldberg consented to the described sanctions and to the entry of findings that he signed a customer's name on a letter of authorization, at the request of a registered representative, without the customer's consent or authority to do so.

Goldberg's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. **(NASD Case #C9B010055)**

Charles William Herbert (CRD #4000097, Registered Representative, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD

member in any capacity. Without admitting or denying the allegations, Herbert consented to the described sanction and to the entry of findings that he converted approximately \$50,000 from a bank and its customers by effecting unauthorized transfers of funds from a bank operating account to a personal account and using the funds for his own purposes. **(NASD Case #C9A010018)**

Bryan Gregory Holland (CRD #2668952, Registered Representative, Pittsburgh, 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, Holland consented to the described sanction and to the entry of findings that he received approximately \$65,000 from a public customer to invest in a non-profit corporation and, rather than investing the funds, he converted the funds to his own use and benefit without the customer's knowledge or consent. **(NASD Case #C9A010020)**

Glen Evan Horecky (CRD #1912346, Registered Representative, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Horecky consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving prior written notice to his member firm.

Horecky's suspension began July 16, 2001, and will conclude at the

close of business August 14, 2001. **(NASD Case #C07010041)**

William Leslie Hudley (CRD #1804457, Registered Representative, Montclair, 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, Hudley consented to the described sanctions and to the entry of findings that he converted at least \$161,000 from public customer accounts and used the funds for his own use and benefit without the customers' knowledge or consent. The findings also stated that Hudley failed to respond to NASD requests for information. **(NASD Case #C9B010058)**

Gregory Morton Jones, Sr. (CRD #1672249, Registered Representative, Overland Park, Kansas) 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, Jones consented to the described sanctions and to the entry of findings that he received checks totaling \$95,000 intended for the purchase of a fixed annuity and a variable universal life insurance policy. The NASD found that Jones endorsed the checks, purchased a fixed annuity for \$75,000 and a variable universal life insurance policy for \$10,000, and did not invest the remaining \$10,000 as intended by the customer nor promptly return the remaining funds to the customer. The NASD also found that Jones failed to promptly invest the \$75,000 in the fixed annuity as intended by the customer, and instead, held the funds in his

account. **(NASD Case #C04010023)**

Michael Patrick Kaselnak (CRD #2003171, Registered Representative, Rochester, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Kaselnak consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers without providing prior written notice to his member firm.

Kaselnak's suspension began August 6, 2001, and will conclude at the close of business September 4, 2001. **(NASD Case #C04010024)**

Sara Ellen Kocher (CRD #55676, Registered Representative, Boca Raton, Florida) 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 weeks. Without admitting or denying the allegations, Kocher consented to the described sanctions and to the entry of findings that she signed the name of a public customer to a letter of instructions to a mutual fund distributor without the knowledge or consent of the customer. The findings also stated that Kocher signed the names of co-trustees of an irrevocable family trust to a form confirming an authorization of the liquidation of mutual fund shares without their knowledge or consent.

Kocher's suspension began August 6, 2001, and will conclude September 16, 2001. **(NASD Case #C05010029)**

Fernando Larrea (CRD #3230636, Registered Representative, Winter Springs, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Larrea reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Larrea consented to the described sanctions and to the entry of findings that he signed a customer's name to a client acknowledgement form without the customer's knowledge or consent.

Larrea's suspension began July 16, 2001, and will conclude at the close of business July 15, 2003. **(NASD Case #C07010046)**

Tam Thanh Le (CRD #3132393, Registered Representative, Balch Springs, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Le received a \$2,000 check from a public customer for the purchase of a variable annuity and, without the customer's knowledge or consent, applied the funds to pay premiums on other customers' policies. The findings also stated that Le failed to respond to NASD requests for information. **(NASD Case #C05010002)**

Jeffrey James Lenoy (CRD #2932231, Registered Representative, Hawthorne, New Jersey) 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 sanctions were based on findings

that Lenoy asked another registered representative to sign a customer's name on a letter of authorization without having obtained the customer's consent or authority to do so.

Lenoy's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. **(NASD Case #C9B010056)**

Joseph Ferrer Leomo (CRD #2898668, Registered Representative, Northridge, 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, Leomo consented to the described sanction and to the entry of findings that, without authorization from his member firm, he used the firm's letterhead and purported auspices as a knowing and willing participant in a scheme to mislead and defraud members of the public. According to the findings, through the letters, Leomo represented that a certain individual held an account with the firm, and that the firm guaranteed that sufficient funds existed in the purported customer's account to cover commitments the customer had with certain members of the public. The NASD found that Leomo's representations made through the subject letters were false because, without limitation, the purported customer did not maintain an account with the firm as of the date the letters were sent by Leomo, and the firm never extended or guaranteed any financial commitments in favor of the non-customer to any member of the public. The NASD determined that the purpose of the letters was to induce the recipients of the letters to extend credit or to advance payments to the non-customer. The findings also stated

that Leomo received \$15,000 in funds from a public customer intended for investment purposes and \$100,000 from a public customer intended to be placed in trust for the customer at his member firm, failed to apply the funds as directed by the customers, and instead, without the customers' knowledge or consent, misused the funds by wiring the funds to, and for the benefit of, a third-party corporation. The wiring of the customers' funds did not benefit the customers. **(NASD Case #C02010031)**

Vito Robert Lomonaco (CRD #2159938, Registered Principal, Bronx, 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 \$11,000, plus interest, in restitution to a public customer. Satisfactory proof of payment of restitution, plus interest, must be provided before Lomonaco reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lomonaco consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction and failed to provide written notification to, or obtain written approval from, his member firm. The findings also stated that Lomonaco failed to appear for NASD on-the-record interviews. **(NASD Case #C10010084)**

Jenny Loo (CRD #2422041, Registered Principal, Staten Island, New York) submitted an Offer of Settlement in which she was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid

before Loo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Loo consented to the described sanctions and to the entry of findings that she failed to respond truthfully and non-deceptively during an NASD on-the-record interview.

Loo's suspension began July 16, 2001, and will conclude at the close of business July 15, 2003. **(NASD Case #C10010046)**

Frank Joseph Macri, Jr. (CRD #703524, Registered Representative, Apalachin, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Macri consented to the described sanctions and to the entry of findings that he failed to update his Form U-4 to disclose a material fact.

Macri's suspension began July 2, 2001, and concluded at the close of business August 1, 2001. **(NASD Case #C11010025)**

Robert Michael Mark (CRD #1053836, Registered Representative, Weirton, West Virginia) 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, Mark consented to the described sanction and to the entry of findings that he converted approximately \$10,000 from a public customer by obtaining loans against an insurance policy in the customer's name and then using the funds for his own purposes

without the customer's knowledge or consent. **(NASD Case #C9A010021)**

John Lee McSwain (CRD #1405138, Registered Principal, Shelby, North Carolina) 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 demonstrate that he has paid \$25,402.99 in disgorgement to public customers. Proof of payment of the disgorgement must be provided before reassociating with any NASD member. Without admitting or denying the allegations, McSwain consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide written notification to, or obtain written approval from, his member firm. The NASD also found that McSwain received compensation for participating in financial activities for an entity without providing his member firm with prompt written notice of his outside business activity. **(NASD Case #C3A010021)**

Alphonse Mekalainas, Jr. (CRD #1276859, Registered Principal, Farmingdale, 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 principal capacity for 10 business days. Without admitting or denying the allegations, Mekalainas consented to the described sanctions and to the entry of findings that he failed to establish written supervisory procedures specifically addressing his member firm's government securities business and failed to designate a principal responsible for supervising his firm's government securities business.

The findings also stated that Mekalainas reviewed, initialed, and approved, in a principal capacity, order tickets for government securities transactions for which public customers of his member firm were charged excessive markups.

Mekalainas' suspension will begin August 20, 2001, and will conclude at the close of business August 31, 2001. **(NASD Case #C10010091)**

John Richard Monderine (CRD #2692814, Registered Representative, Nesconsett, 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, Monderine consented to the described sanction and to the entry of findings that he used the registered representative numbers of other registered representatives to effect securities transactions on behalf of public customers residing in states in which he was unregistered, thereby circumventing state securities laws. The findings also stated that Monderine provided false testimony during NASD on-the-record interviews. **(NASD Case #C10010093)**

Johnny Alberto Mora (CRD #2952626, Registered Representative, Placentia, California) 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 \$95,400, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Mora consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in the

securities account of a public customer, and affixed the signature of the authorized representative for a corporate customer on an offering coupon to purchase bonds and on an authorization to liquidate the customer's position in bonds, without the customer's or customer's representative's knowledge or consent. The finding also stated that Mora recommended and/or engaged in purchase transactions in the customer's account and did not have reasonable grounds for believing that these recommendations and/or resultant transactions were suitable for the customer on the basis of the customers' financial situation, investment objectives, and needs. **(NASD Case #C02010030)**

Michal Kevin Nickel (CRD #3099334, Registered Representative, Schofield, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, suspended from association with any NASD member in any capacity for six months, and ordered to disgorge \$20,184 in commissions. Payment of the fine and proof of disgorgement shall be a prerequisite to reassociation with a member firm following the suspension or to any such application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Nickel consented to the described sanctions and to the entry of findings that he participated, for compensation, in private securities transactions and failed to give written notice of his intention to engage in such activities to his member firm, and failed to receive written approval from the firm prior to engaging in such activities. The findings also stated that Nickel participated in the sale of securities in the form of

promissory notes and failed to properly register and/or qualify in the appropriate capacity with his member firm prior to engaging in the securities transactions.

Nickel's suspension began August 6, 2001, and will conclude at the close of business February 5, 2002. **(NASD Case #C8A010036)**

George Paul Nikitovich (CRD #840601, Registered Representative, Cross River, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$31,358, which includes disgorgement of \$21,358 in commissions received, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Nikitovich consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the account of a public customer without prior authorization from the customer, or from any representative of the customer, and prior written acceptance of the account as discretionary by his member firm. The findings also stated that Nikitovich liquidated transactions in the account of the public customer without authorization from a representative of the customer. Nikitovich was already advised that the customer had died.

Nikitovich's suspension began August 6, 2001, and will conclude at the close of business September 4, 2001. **(NASD Case #C10010080)**

Michelle Marie Niska (CRD #2040226, Associated Person, Maple Grove, Minnesota) 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, Niska consented to the described sanction and to the entry of findings that she directed a \$498,672.24 wire transfer from her member firm's general cash account to an account she controlled and converted the funds to her own use and benefit. The NASD also found that Niska affixed the signatures of designated authorized supervisors to wire transfers and failed to respond to NASD requests for information. **(NASD Case #C04010025)**

Christopher Michael O'Connell (CRD #2305843, Registered Representative, Mineola, New York) was fined \$35,000 and suspended from association with any NASD member in any capacity for nine months for permitting individuals to use his representative number and falsifying account records, and barred from association with any NASD member in any capacity for failing to permit the NASD staff to inspect and copy records. The sanctions were based on findings that O'Connell allowed unregistered individuals to engage in conduct requiring registration including using O'Connell's registered representative number and/or his production number to effect securities transactions on behalf of public customers. The findings also stated that O'Connell allowed registered representatives to use his registered representative number and/or his production number to effect securities transactions on behalf of public customers residing in states where the other representatives were not registered. In addition, the NASD found that O'Connell signed new customer account forms as the registered representative for accounts that were serviced by other registered

representatives, thereby falsifying customer records. Furthermore, the NASD found that O'Connell failed to respond to NASD requests to inspect and copy records.

O'Connell's bar became effective June 29, 2001. **(NASD Case #C10010001)**

Chung Suk Oh (CRD #2838370, Registered Representative, New York, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 50 days. The fine must be paid before Oh reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Oh consented to the described sanctions and to the entry of findings that he exercised discretion in the account of a public customer without prior written authorization from the customer or written acceptance of the account as discretionary by his member firm. The findings also stated that Oh failed to respond timely to NASD requests for information.

Oh's suspension began July 16, 2001, and will conclude September 3, 2001. **(NASD Case #C10010009)**

Danny Ray Parker (CRD #1921892, Registered Representative, Porter, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Parker received a \$7,000 check from an insurance customer intended as an insurance policy premium payment, entered his own name as the payee on the check, endorsed the check, and failed to apply the funds to the insurance

policy. Parker also failed to respond to NASD requests for information. **(NASD Case #C06010001)**

Shailesh Babubhai Patel (CRD #2610523, Registered Principal, Huntington Beach, California) was barred from association with any NASD member in any capacity. The NAC affirmed the sanction following appeal of an OHO decision. The sanction was based on findings that Patel received \$40,000 from public customers in order to purchase certain bonds. Patel failed to purchase the bonds or to make any other investment on their behalf. **(NASD Case #C02990052)**

Anthony Joseph Peluso (CRD #2314102, Registered Representative, Deerfield Beach, 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, Peluso consented to the described sanction and to the entry of findings that he used high-pressure sales tactics and knowingly made to customers numerous baseless predictions of substantial price increases and material misrepresentations of fact in connection with his solicitation of orders to purchase low-priced speculative securities and other securities. **(NASD Case #C07010043)**

Frank Anthony Persico (CRD #1693712, Registered Representative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Persico failed to respond to questions during an NASD on-the-record interview. **(NASD Case #C10000139)**

Donald Francis Reagan (CRD #1600836, Registered Principal, Cape Coral, Florida) was fined \$10,000 and suspended from association with any NASD member in any capacity for 90 business days for engaging in private securities transactions and barred from association with any NASD member in any capacity for failing to respond to NASD requests for information. The fine must be paid before Reagan seeks to reenter the securities industry. The sanctions are based on findings that Reagan engaged in private securities transactions for compensation and failed to provide his member firm with prior written notice describing in detail the proposed transactions, his role therein, and stating whether he had received, or might receive, compensation, and failed to receive his member firm's prior written permission. The findings also stated that Reagan failed to respond to NASD requests for information.

Reagan's bar became effective June 15, 2001. **(NASD Case #C05010008)**

Mark Edwin Rothe (CRD #4279508, Associated Person, Godfrey, 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 one month. The fine must be paid before Rothe reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rothe consented to the described sanctions and to the entry of findings that he completed, signed, and submitted to the NASD a Form U-4 that failed to disclose a material fact.

Rothe's suspension began August 6, 2001, and will conclude at the close of business September 5, 2001. **(NASD Case #C8A010038)**

Michael Victor Rozes (CRD #839852, Registered Representative, High Point, North Carolina) 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. Rozes must pay the fine before he reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rozes 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.

Rozes' suspension began July 16, 2001, and will conclude at the close of business January 15, 2002. **(NASD Case #C07010040)**

Trevor Douglas Seffren (CRD #2410677, Registered Representative, Aventura, Florida) was fined \$20,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam as a general securities representative before acting in any capacity requiring that registration. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Seffren failed to respond timely to NASD requests for information.

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

Pauline Teresa Serfass (CRD #1561590, Registered Principal, Quakertown, Pennsylvania)

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 30 days. Without admitting or denying the allegations, Serfass consented to the described sanctions and to the entry of findings that, as the representative of record for a variable annuity owned by a public customer, she gave instructions to the company that had issued the annuity that caused changes to be made in how the money in the annuity was invested. The findings also stated that Serfass caused all shares held in mutual funds to be sold and the money re-invested in different mutual funds. In addition, the NASD found that Serfass gave instructions whereby the total dollar value of the annuity as of that date was re-allocated equally among the sub-accounts, resulting in a partial liquidation of the shares held in the holdover mutual fund. Furthermore, the NASD found that the changes were made without the customer's knowledge or authorization.

Serfass' suspension began July 16, 2001, and will conclude at the close of business August 14, 2001. **(NASD Case #C9A010017)**

James Thomas Shanley (CRD #839313, Registered Principal, Old Bridge, New Jersey)

submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in a principal capacity for two months. Without admitting or denying the allegations, Shanley consented to the described sanctions and to the entry of findings that, on behalf of a member firm, he failed to establish, maintain, and enforce written procedures to supervise

the types of business in which the firm engaged that were reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to markdowns. The findings also stated that Shanley failed to supervise the activities of his member firm and its registered representatives with respect to excessive and fraudulent markdowns.

Shanley's suspension began July 16, 2001, and will conclude September 15, 2001. **(NASD Case #CAF000013)**

Robert Stack, Jr. (CRD #1677025, Registered Representative, Redbank, New Jersey) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for 15 business days. In light of the financial status of Stack, a fine of \$25,000, of which \$20,000 represents disgorgement, has been imposed. Without admitting or denying the allegations, Stack consented to the described sanctions and to the entry of findings that he performed duties as a registered person for his member firm while his registration status was inactive based on his failure to complete the Regulatory Element of the NASD's Continuing Education Program.

Stack's suspension will begin August 20, 2001, and will conclude at the close of business September 10, 2001. **(NASD Case #C9B000017)**

Sean Patrick Tenney (CRD #3055872, Registered Representative, Orlando, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Tenney forged a public customer's signature on a Mutual

Fund and Certificate Redemption, Exchange, and/or Transfer of Investment form and a Financial Advisory Service Agreement form without the customer's knowledge or authorization. Tenney also failed to respond to NASD requests for information. **(NASD Case #C07010012)**

David Vazquez (CRD #2620841, Registered Principal, Glendale, 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, Vazquez consented to the described sanction and to the entry of findings that he embezzled \$210,000 in funds from his member firm by improperly obtaining checks made payable to a mutual fund account that he controlled, causing the checks to be deposited into the mutual fund account, and subsequently using them for his own benefit. Vazquez also failed to respond to NASD requests for information. **(NASD Case #C02010029)**

Charles Keith Waddell (CRD #2347936, Registered Representative, Oklahoma City, Oklahoma) was fined \$40,000, suspended from association with any NASD member in any capacity for two years, and ordered to pay \$100,000, plus interest, in restitution to a public customer. Waddell is also subject to special supervision for a minimum of two years with any NASD member with which he becomes associated following his suspension. The sanctions are based on findings that Waddell made untrue statements of material fact to a public customer in connection with a sale of securities and transferred a bond to an individual without the explicit permission of the public customer who was the beneficiary

of the bond. The findings also stated that Waddell engaged in private securities transactions for compensation without prior written notice to his member firm describing in detail the proposed transactions, his proposed role therein, and stating whether he had received, or might receive, selling compensation in connection with the transactions.

Waddell's suspension began July 2, 2001, and will conclude at the close of business July 1, 2003. **(NASD Case #C05000021)**

O. Jennings Wilkinson, IV (CRD #2772955, Registered Representative, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$17,500, suspended from association with any NASD member in any capacity for two years, and ordered to disgorge \$6,233 to public customers. In light of the financial status of Wilkinson, a fine of \$17,500 was imposed. The fine payment and satisfactory proof of payment of the disgorgement must be provided before Wilkinson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wilkinson consented to the described sanctions and to the entry of findings that he exercised discretion in the accounts of public customers without their prior written authorization and the prior written approval from his member firm to exercise discretion. The findings also stated that Wilkinson engaged in excessive trading in the account of public customers. In addition, the NASD found that Wilkinson engaged in outside business activities and failed to give prompt written notice to his member firm of his activities.

Wilkinson's suspension began July 16, 2001, and will conclude at the close of business July 15, 2003. **(NASD Case #C3A010019)**

Shiewi Xu (CRD #2731114, Registered Representative, Edison, New Jersey) 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 reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Xu consented to the described sanctions and to the entry of findings that he placed advertisements in a newspaper, soliciting customers to join an investment club without the approval of his member firm. The findings also stated that the advertisements contained exaggerated and unwarranted statements and claims, and failed to provide a sound basis for evaluating the product being offered rendering them misleading.

Xu's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. **(NASD Case #C9B010053)**

Michael Edmond Zulick (CRD #1834341, Registered Principal, Akron, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Zulick took checks from his member firm without firm authorization or notification, deposited the funds in his personal checking account, and used the funds to pay for personal expenses, thereby converting the funds for his own use and benefit. **(NASD Case #C8B000001)**

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 July 13, 2001. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. An initial decision whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Damien Robert Douglas (CRD #2255355, Registered Representative, Queens, New York) was fined \$60,000, barred from association with any NASD member in any capacity, and ordered to pay \$29,886, plus interest, in restitution to public customers. The fine must be paid when and if Douglas seeks reentry into the securities industry. The sanctions were based on findings that Douglas executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Douglas provided false account information to a customer.

Douglas has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C10000026)**

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.

Christian Weekley Baker (CRD #1639374, Registered Representative, St. Louis, Missouri) was named as a respondent in an NASD complaint alleging that she received \$50,000 in cash from a public customer and mishandled customer funds by retaining possession of the currency, not returning the currency to the customer, and not assisting the customer by promptly depositing the full amount of the currency to the customer's investment account. The complaint further alleges that Baker engaged in a scheme to assist the customer in evading the federal cash transaction reporting requirements by failing to file a currency transaction report disclosing her receipt of \$50,000 in cash from the customer and depositing funds into the customer's accounts in increments of amounts less than \$3,000. Moreover, the complaint alleges that Baker failed to inform her member firm of her receipt of the cash, causing the failure of the firm to file a currency transaction report with the Internal Revenue Service that requires disclosure of deposits of \$10,000 or more. Furthermore, as a result of such actions, the NASD alleges that Baker caused her member to fail to record on its books and records the receipt of cash from a public customer. **(NASD Case #C8A010048)**

Michael Alexander Bufano (CRD #3199805, Associated Person, Bronx, New York) was named as a respondent in an NASD complaint alleging that he removed checks from his member firm's checkbook, filled out the checks for a total of \$2,000, and converted the funds for his own personal use and benefit without the firm's knowledge, authorization, or

consent. The complaint also alleges that Bufano forged the signatures of an authorized signatory employed by his firm and the purported drawee on the checks. In addition, the complaint alleges that Bufano failed to respond to NASD requests for information. **(NASD Case #C10010087)**

Theodore Thomas Eastwick (CRD #1571559, Registered Principal, New York, New York) was named as a respondent in an NASD complaint alleging that he prepared a letter from a public customer purportedly directing the liquidation of all shares held in an account of the customer even though the customer was deceased and that he forged the customer's signature to the letter. The complaint also alleges that Eastwick forged the customer's signature on a check-writing authorization form and specimen signature card for the customer's account. In addition, the complaint alleges that Eastwick forged the customer's signature on checks totaling approximately \$7,000 drawn against the account and converted the funds for his own use and benefit without the customer's knowledge, authorization, or consent. **(NASD Case #C10010090)**

Thomas William Galuski (CRD #2005707, Registered Representative, Chicago, Illinois) was named as a respondent in an NASD complaint alleging that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm prior to engaging in such activities. The complaint also alleges that Galuski issued false account documents to customers regarding investments in their accounts. **(NASD Case #C8A010040)**

Peter Van Hamm (CRD #2530393, Registered Representative, Dunellen, New Jersey) was named as a respondent in an NASD complaint alleging that he executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent. **(NASD Case #C10010082)**

James Howard Jones (CRD #731895, Registered Representative, Anderson, Indiana) was named as a respondent in an NASD complaint alleging that he received from a public customer a \$5,735 check to purchase shares in a variable annuity product, failed to apply the funds as directed, and without the knowledge and authorization of the customer, used the funds for his own benefit or for some purpose other than the benefit of the customer. The complaint further alleges Jones issued a false document to the customer purporting that the funds had been sent to and deposited into the customer's account, and falsely represented to the customer that he had created a "side fund" for the customer when, in fact, no such fund ever existed. **(NASD Case #C8A010037)**

Emmanuel George Kavekos (CRD #2794227, Registered Representative, West Palm Beach, Florida) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts of public customers. The complaint further alleges that Kavekos 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. **(NASD Case #C07010045)**

Key West Securities, Inc. (CRD #38305, Cardrift By The Sea, California) and Amr Ibrahim Elgindy (CRD #1824634, Registered Principal, Colleyville, Texas) were named as respondents in an NASD complaint alleging that the firm, acting through Elgindy, engaged in a manipulative, deceptive, and fraudulent scheme involving the trading of a security by obtaining money, selling the security short at higher manipulated prices, and then attempting to cover the short position at a lower price by causing the price of the security to drop through the dissemination of deceptive sell recommendations about the security. The complaint further alleges that, in furtherance of the scheme, and in an attempt to profit from the security's short position, the firm, acting through Elgindy, disseminated, or made generally available to customers or the public, a report concerning the security in which the firm initiated coverage of the security with a sell recommendation. The complaint alleges that the report was deceptive in that the respondents failed to disclose that the firm was registered as a market maker and held a proprietary short position in the security. The NASD alleges that by this conduct, the firm, acting through Elgindy, by the use of means or instrumentalities of interstate commerce, to wit, the Nasdaq System and news wire services, intentionally and recklessly effected transactions in, and induced the purchase and sale of a security by means of manipulative, deceptive, and other fraudulent devices or contrivances. **(NASD Case #CMS000015)**

Tuan Ba Le, a/k/a Jason Le (CRD #3079382, Registered Representative, Grand Prairie, Texas) was named as a respondent in an NASD complaint alleging that he made

unauthorized withdrawals totaling \$176,000 from a public customer's savings account by signing the customer's name on a withdrawal slip and used the proceeds for his own use and benefit without the authorization, knowledge, or consent of the customer. **(NASD Case #C06010017)**

Erik Robert Olufson (CRD #2875845, Registered Representative, Miami, Florida) was named as a respondent in an NASD complaint alleging that he engaged in widespread, fraudulent sales practices by luring public customers into highly speculative investments in risky securities, without providing adequate and accurate information regarding the securities he recommended, particularly as to the risks of the investments, and omitted materially negative or cautionary information about the security being recommended. The complaint further alleges that Olufson acted as a registered representative without being registered with the NASD and failed to appear for testimony before the NASD. **(NASD Case #C07010039)**

Gary Ronald Putti (CRD #2630113, Registered Principal, Miami, Florida) was named as a respondent in an NASD complaint alleging that he received a \$2,000 check from an individual intended as a loan and failed to repay \$1,000 of the funds. The complaint also alleges that Putti failed to respond to NASD requests for information. **(NASD Case #C07010042)**

Haskell Paul Stone, III (CRD #3035254, Registered Representative, Stuart, Florida) was named as a respondent in an NASD complaint alleging 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 provided false statements to customers without disclosing adequate and accurate information regarding the securities without having a reasonable basis for such representations. The complaint also alleges that Stone recommended and implemented a course of trading in a customer's account that was unsuitable based upon the customer's lack of investment experience and the use of borrowed funds. **(NASD Case #C07010051)**

Matthew David Stone
(CRD #2922068, Registered Representative, Stuart, Florida)
was named as a respondent in an NASD complaint alleging 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, by making baseless price predictions, providing false statements to customers without providing adequate and accurate information regarding the securities, and without having a reasonable basis for such representations. The complaint further alleges that Stone failed to follow customers' instructions to sell stock and engaged in unauthorized trading in a customer's account. **(NASD Case #C07010050)**

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.

Equity Alliance Group
Torrance, California
(June 18, 2001)

Panta Management, Incorporated
New York, New York
(June 15, 2001)

Tasin & Company Inc.
Hauppauge, New York
(June 15, 2001)

Firm Expelled For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations

Millennium Securities Corp.
New York, New York
(June 15, 2001)

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

Long Securities Corporation
Glendale, California
(July 12, 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.)

Arnett, Catherine
Rosemeade, California
(July 5, 2001)

Bailey, Richard Eugene
Cedar Rapids, Iowa
(June 12, 2001)

Cossu, Calude Gerald
Fairfield, California
(July 5, 2001)

Cullen, Michael K.
Fairview Heights, Illinois
(June 12, 2001)

Goodman, Barry
North Andover, Massachusetts
(June 18, 2001)

Spomer, Todd Jacob
Madison, South Dakota
(July 11, 2001)

St. Myer, Bradley David
Wexford, Pennsylvania
(June 5, 2001)

Warren, Raymond P.
Escondido, California
(July 5, 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.)

Atienza, Jr., Prospero
Buena Park, California
(July 5, 2001)

Carlson, Aaron J.
Beaverton, Oregon
(June 5, 2001)

Federico, Mark A.
Boston, Massachusetts
(June 13, 2001)

Johnson, Eric K.
South Branch, New Jersey
(July 10, 2001)

Lalle, Gregory
Clearwater, Florida
(July 10, 2001)

Ly, Danny Ben
North Hollywood, California
(June 6, 2001)

Radde, Kevin E.
Gilberts, Illinois
(June 13, 2001)

Spector, Gary J.
Burbank, California
(June 20, 2001)

Vitale, David
Pacific Beach, California
(June 5, 2001)

Yu, James W.
Ann Arbor, Michigan
(June 8, 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.

Jay, Lawrence S.
Camarillo, California
(July 12, 2001)

Small, Gregory
New York, New York
(June 18, 2001)

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

Azeltine, Frederick W.
Denver, Colorado
(June 15, 2001)

Christopher, Cooke B.
San Clemente, California
(June 15, 2001)

Hare, John W.
Darien, Connecticut
(June 15, 2001)

Kaplan, Adam
Brooklyn, New York
(June 15, 2001)

Orandello, Steven J.
Seaford, New York
(June 15, 2001)

Price, Michael J.
Atlanta, Georgia
(June 15, 2001)

Prout, Stephen E.
Clovis, California
(June 15, 2001)

Talboom, Jeffrey R.
Smithtown, New York
(June 15, 2001)

Velez, Alexander
Commack, New York
(June 15, 2001)

NASD Regulation Censures and Fines E*Trade Securities \$90,000 for Violations of Advertising and Supervision Rules

NASD Regulation announced that E*Trade Securities was censured and fined \$90,000 for NASD advertising rule and supervisory system violations. In settling this matter, E*Trade neither admitted nor denied NASD Regulation's allegations.

NASD Regulation found that E*Trade failed to comply with NASD advertising rules when it published an advertisement in August 1999 introducing E*Trade's new mutual fund, the E*Trade Technology Index Fund (ETI Fund). The company said the objective of the ETI Fund was to match, before fees and expenses, the total return of the stocks that make up the Goldman Sachs Technology Index (GSTI Composite). The advertisement,

published on several days in four major publications—*The Wall Street Journal*, *The New York Times*, *Investors Business Daily* and *Barrons*—stated that the ETI Fund was “ranked by Morningstar as the lowest cost tech index fund.” In fact, Morningstar had not ranked the fund. Thus, the statement was incorrect rendering advertisement misleading. NASD Regulation also found that the advertisement referred to the 62.4 percent return of the GSTI Composite Index, but did not tell the reader that the ETI Fund was a new fund with no performance history, and did not clearly divorce the past performance of the index from the future performance of the ETI Fund. E*Trade also failed to file the ETI Fund advertisement with the NASD Regulation Advertising Regulation Department prior to use as required by NASD advertising rules.

NASD Regulation also found violations in connection with two direct mail marketing campaigns not related to the ETI Fund. These were E*Trade's “Check Coupon Direct Mailers” and “Prequalified for Margin Direct Mailers,” which the firm sent to almost 10 million potential investors. The first direct mail piece, distributed to 6.6 million potential investors between July 1999 and April 2000, featured a check-style coupon made out to the recipient offering a \$75 bonus to those who opened a brokerage account with E*Trade. NASD Regulation found the Check Coupon Direct Mailers, through the use of the check-style coupon and accompanying text, informed the reader that a \$75 bonus would be credited to an account immediately. In fact, such credit could actually take several weeks to post to an account. The disclosure language on the back of the direct mail letters indicating when the \$75 bonus would be

received contradicted the main body of the letters that said that the \$75 bonus would be paid immediately. In addition, the Check Coupon Direct Mailers inaccurately portrayed the \$75 as a guaranteed return on an investment in the market, when, in fact, it was simply a bonus for opening an account.

NASD Regulation also found that E*Trade's use of the Prequalified for Margin Direct Mailers violated the NASD advertising rules. These mailers were distributed to 3.2 million investors between October 1999 and April 2000, and stated that each recipient had been selected to receive an offer of a margin account based on his or her outstanding credit history. However, NASD Regulation found that a recipient's credit history did not place him or her at any advantage in obtaining a margin account, nor did a recipient have a "special qualification," which was not available to others, that would assist him or her in obtaining a margin account. In fact, approval for margin accounts at E*Trade did not include a review of credit history.

NASD Regulation further found that E*Trade's compliance and supervisory procedures in connection with its advertising activities failed to comply with NASD supervisory rules. E*Trade did not require its compliance principals reviewing advertising material to obtain a final version, thereby allowing an advertisement to be published that did not incorporate compliance principals' edits. In addition, NASD Regulation found that E*Trade had no formal auditing procedure to ensure that firm employees involved in developing advertising fully complied with its compliance and supervisory procedures.

This case was investigated by NASD Regulation's Enforcement Department, with assistance from the Advertising Regulation Department.

NASD Regulation Sanctions Ten Firms for Locked and Crossed Market Violations in Trading After Initial Public Offerings

NASD Regulation announced that it has fined 10 firms and suspended five of them from market making activities in the immediate aftermarket of initial public offerings (IPOs) for causing the markets to lock and cross at the opening of secondary trading. Locked and crossed markets adversely effect an orderly market opening and efficient price discovery because many firms do not execute customer orders during locked and crossed markets or execute such orders at unfavorable prices.

The disciplinary actions announced resulted from violations of the NASD's locked and crossed markets rule. Markets become locked and crossed when a market maker enters or maintains an "ask" price for a security that is the same or lower than the "bid" price of another market maker. Locked or crossed quotations may occur in fast-moving markets and can have significant impact on the opening of trading in newly offered securities. Many secondary trading markets were opening crossed by several points and in some cases, the locked or crossed condition existed for many minutes into the initial secondary trading period.

These disciplinary actions result from an NASD Regulation Market Regulation Department review of market maker quotations from March 1, 1999, through June 15, 1999. Monetary sanctions in the

10 settled actions total \$473,000. These firms have neither admitted nor denied the allegations, but have consented to the entry of findings pursuant to the settlements.

In addition to a fine, NASD Regulation suspended five of the 10 firms from participating as a market maker in the trading of a security that has just completed an IPO from the beginning of secondary trading through the end of normal business hours on the next trade date. The firms will be suspended for periods of 10 to 30 business days.

The following firms were censured and fined by NASD Regulation: Fleet Securities, Inc., \$50,000; NDB Capital Markets LP, \$250,000; Herzog, Heine, Geduld, Inc., \$18,000; Schwab Capital Markets, \$12,000; and Spear, Leeds & Kellogg, \$10,000.

The following firms were fined and suspended by NASD Regulation: Access Securities, Inc., \$14,000 and a 30-business-day suspension; Aegis Capital Corp., \$19,000 and a 10-business-day suspension; Dalton Kent Securities Group, Inc., \$25,000 and a 30-business-day suspension; Ramius Securities L.L.C., \$61,000 and a 10-business-day suspension; and Torrey Pines Securities, Inc., \$14,000 and a 30-business-day suspension.

NASD Regulation Sanctions Eleven Firms for Trade or Move Violations

NASD Regulation announced that it has settled 11 separate disciplinary actions against firms for violations of the NASD's Trade or Move Rule. The 11 firms involved in today's actions were censured and fined a total of \$355,000.

The Trade or Move Rule applies to all securities listed on The Nasdaq Stock Market, and is designed to ensure that the markets for Nasdaq stocks open in a fair and orderly manner. The Rule requires firms that lock or cross the market during the time period between 9:20 a.m. to 9:30 a.m., EST, immediately send Trade or Move messages to the parties with whom it has locked or crossed. Firms receiving Trade or Move messages during this time period must, within 30 seconds of receipt, either execute the trade in full or move their quote to an unlocking price.

Compliance with the Trade or Move Rule is critically important to ensuring accurate pricing at the open of The Nasdaq Stock Market, particularly on "Expiration Fridays" and index rebalancing days. The Rule generally has been viewed, since its adoption in 2000, as having increased the ability of investors to get fair prices, increased market transparency, and improved price discovery in The Nasdaq Stock Market at the open.

The following firms were censured and fined a total of \$355,000 by NASD Regulation for violations of the Trade or Move Rule: NDB Capital Markets, LP, \$75,000; Lehman Brothers, Inc., \$65,000; Fleet Securities, Inc., \$40,000; Herzog, Heine, Geduld, Inc., \$40,000; Banc of America Securities LLC, \$40,000; Credit Suisse First Boston Corporation, \$25,000; ING Barings LLC, \$20,000; Merrill Lynch, Pierce, Fenner & Smith, Inc. \$15,000; Penson Financial Services, Inc., \$15,000; Chase Securities, Inc., \$10,000; and Ramius Securities LLC, \$10,000. These actions are the result of reviews conducted by the Trading Practices Section within NASD Regulation's Market

Regulation Department. These firms have neither admitted nor denied the allegations, but have consented to the entry of findings pursuant to the settlements.

These disciplinary actions highlight NASD Regulation's commitment to enforce member compliance with trading rules essential to market quality and customer protection. NASD Regulation notes that industry-wide compliance with the Trade or Move Rule has improved considerably in recent periods of potential volatility, such as the June 2001 Expiration.