Disciplinary Actions

Disciplinary Actions Reported For January NASD Regulation, Inc. (NASD Regulation[™]) 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 December 27, 2000.

Firms Expelled, Individuals Sanctioned

Great American Financial Network, Inc. (CRD #14108, Norcross, Georgia) and Edward Lee Bates (CRD #1815183, Registered Principal, Duluth, Georgia) were fined \$25,000, jointly and severally, and were each suspended from association with the NASD in all capacities for two years for failing to implement a continuing education plan and failing to completely respond to requests for information. The firm and Bates were also fined \$80,000, jointly and severally, and Bates was suspended from association with any NASD member in any capacity for two years and barred from association with any NASD member in a supervisory capacity failing to report customer complaints, filing inaccurate FOCUS reports, filing an audit report in an untimely manner, and failing to file an audit report. In addition, the firm was expelled from NASD membership and Bates was barred from association with NASD members in any capacity for violating net capital rules and failing to maintain current, complete, and accurate books and records. Furthermore. Bates was fined \$5,000 and suspended from association with any NASD member in any capacity for six months for failing to establish adequate written supervisory

procedures. The fines must be paid before requesting reentry into the securities industry.

The expulsions and bars became effective December 7, 2000. (NASD Case #C07000037)

Monitor Investment Group, Inc. (CRD #31007, New York, New York), Michael Angelo Cavallo (CRD #43518, Registered Principal, Old Bridge, New Jersey), James Justin Garcia, Jr. (CRD #1144228, Associated Person, New York, New York), Scott Herkert (CRD #2092867, Registered Representative, Staten Island, New York), Norman Martin Lescht (CRD #1164306, Registered Principal, East Brunswick, New Jersey), William Francis Palla (CRD #1101428, Registered Principal, Narbeth, Pennsylvania), Jeffrey David Pokross (CRD #2358776, Associated Person, New York, New York), Salvatore Francisco Ruggiero (CRD #2521196, Brooklyn, New York), and Edward Christopher Telmany (CRD #2574437, Registered Representative, Staten Island, New York). The firm was fined \$350,000 and expelled from NASD membership. Palla was fined \$350,000 and barred from association with any NASD member in any capacity and Pokross was fined \$300,000 and barred from association with any NASD member in any capacity. Herkert, Ruggiero, and Telmany were each fined \$100,000 and barred from association with any NASD member in any capacity. Cavallo, Garcia. and Lescht were each fined \$50,000 and barred from association with any NASD member in any capacity. The fines must be paid before reassociating with the NASD. The sanctions are based on findings that the firm, acting through Palla and Pokross, knowingly and/or recklessly engaged in

a fraudulent scheme to manipulate the supply and price of a security, charged fraudulent and excessive markups, and purchased, or induced others to purchase, the security while the firm was engaged in a distribution. Palla also directed and endorsed special selling methods to induce the sale of the stock by promising economic inducements to the firm's brokers. The firm created and provided false order tickets to the NASD to reflect reduced commissions on the tickets. The firm. acting through Palla, failed to establish and maintain adequate written supervisory procedures reasonably designed to achieve compliance with applicable securities laws. In addition, the NASD also found that the firm, acting through Palla, failed to report customer complaints and quarterly statistical and summary information regarding the complaints to the NASD.

The findings also stated that Garcia conducted a securities business without being registered with the NASD. The firm, acting through Lescht, failed to properly register Garcia and knew he was conducting a securities business without being registered with the NASD. The firm, acting through Cavallo, compensated Garcia for conducting securities transactions when he was not registered and falsified books and records by routing commissions charged on Garcia's transactions through the registered representative numbers of other brokers. The firm, acting through Palla, failed to ensure that the firm had an adequate supervisory system to detect unregistered representatives and to prevent them from conducting a securities business.

The NASD also found that Ruggiero, Herkert, and Telmany induced public customers to

purchase shares of the security by intentionally or recklessly mischaracterizing the nature of the stock being sold and making baseless price predictions. They also failed to notify their customers that the price had been manipulated, was not the result of free market forces, and failed to disclose the firm's trading activity in the stock. Furthermore, the NASD found that Palla, Cavallo, Ruggiero, Herkert, and Telmany failed to respond truthfully to NASD requests for information. (NASD Case #C10970145)

San Clemente Securities, Inc. (CRD #21895, San Clemente, California), Cooke Baille Christopher (CRD #1590203, **Registered Principal, San** Clemente, California), Thomas Henri Sunderland (CRD #1636630, Registered Principal, San Clemente, California), **Douglas Grant Eichenberger** (CRD #1821564, Registered Representative, Ft. Collins, Colorado), and Randy Trager Rondberg (CRD #1826543, **Registered Representative,** Gilbert, Arizona) submitted Offers of Settlement in which the firm was expelled from NASD membership. Christopher was barred from association with any NASD member in any capacity, and Sunderland was censured, fined \$40,000, and suspended from association with any NASD member in any capacity for two years. Sunderland was also required to requalify by exam as a general securities principal, and his fine must be paid before reassociating with a member firm. Eichenberger was barred from association with any NASD member in any capacity and required to disgorge \$13,950 in commissions. The disgorgement of commissions earned by Eichenberger must be paid before requesting reassociation with a member firm. Rondberg was censured and fined \$10,000

which includes disgorgement of \$481.63 in disgorgements earned.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with the purchase by investors of custodialized certificate of deposit investments (certificates), the firm, acting through Christopher, Eichenberger, and Rondberg, engaged in various practices and conduct designed to induce public customers to invest in certificates offered and sold through the firm, and recklessly made untrue statements of material facts and omitted to state material facts necessary to make the statements by them, in the light of the circumstances in which they were made, not misleading. The findings also stated that the firm, acting through Christopher, Eichenberger, and Rondberg, recklessly confused and misled investors, failed to disclose to customers that sales commissions and custodial fees on certificate transactions would be taken "up front" from investors' principal and not from the earnings on their investment, and incorrectly represented that the full principal paid by investors had been invested in their respective certificates. As executive vice president and part owner of the firm, the NASD determined that Sunderland should have known of the deceptive conduct being perpetrated by the firm and Christopher against the customers, deliberately ignored their deceptive practices, and failed to exercise his power and authority to direct management and policies at the firm.

Sunderland's suspension began December 18, 2000, and will conclude at the close of business on December 17, 2002. (NASD Case #C02000042)

Firms Fined, Individuals Sanctioned

First Financial Equity Corporation (CRD #16507, Scottsdale, Arizona) and George Edward Fischer (CRD #1315706, Registered Principal, Scottsdale,

Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$15,000, jointly and severally. In addition, the firm was censured and fined \$7,000, jointly and severally, with another individual, and Fischer 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, acting through Fischer, participated in the offer and sale of debt securities in a private placement, received investor funds for the purchase of notes, and failed to promptly transmit the funds to an account specified by the Securities and Exchange Commission (SEC). The findings also stated that the firm, acting through Fischer, continued to offer and sell notes after the date upon which the offering should have been terminated due to the failure of the stated contingency. The firm also, acting through another individual, conducted a securities business while failing to maintain the required minimum net capital.

Fischer's suspension began January 2, 2001, and will conclude at the close of business on January 16, 2001. (NASD Case #C3A000030)

Light Securities (CRD #23660, San Francisco, California) and Walter Waitak Light (CRD #1494331, Registered Principal, Alameda, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, and the firm and Light were fined \$15,000, jointly and severally. In addition, Light was suspend ed from association with any NASD member in any capacity for 30 business days and required to requalify as a general securities principal and registered options principal within nine months before acting in those capacities. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Light recommended and effected in the account of a public customer an options trading strategy that was unsuitable for the customer, failed to ascertain the customer's risk tolerance, experience and financial position, and to make the required independent determination of suitability. The findings also stated that the firm and Light entered into settlement agreements with customers that inaccurately disclosed the settlement below the amount which would have required disclosure on Light's Form U-4, and failed to timely amend Light's Form U-4 to disclose the complaints and settlements.

Light's suspension began December 4, 2000, and will conclude at the close of business on January 17, 2001. (NASD Case #C01000035)

Firms And Individuals Fined

Keystone Investment Advisors, LLC (CRD #44856, Kansasville, Wisconsin) and Roger William Christoph (CRD #1182220, Registered Principal, Burlington, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which the respondents were censured and fined \$25,000, 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 Christoph, received funds for the sale of units in a contingency offering, and withdrew funds from the escrow account prior to selling the required minimum amount of units in bona fide transactions. The findings also stated that the firm, acting through Christoph, failed to abide by the terms of its membership agreement, by failing to notify the NASD promptly that it intended to materially change its business operations from "best efforts" underwritings to a firm commitment basis. Furthermore, the NASD found that the firm, acting through Christoph, sold shares of stock at the initial public offering price to accounts maintained by investment partnerships or corporations, but failed to obtain from the accounts information relating to the names and business connections of all persons having a beneficial interest in each of the accounts in order to assure that such sales were made in compliance with the NASD's Free-Riding and Withholding Interpretation. The NASD also determined that the firm, acting through Christoph, effected transactions in securities when it failed to maintain the minimum required net capital and to accurately compute its net capital. (NASD Case #C8A000073)

Precision Trading Group, LLC (CRD #47858, Stamford, Connecticut) and Dennis Gerard Boyd (CRD #1488976, Registered Principal, Fairfield, **Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$13,000, jointly and severally, which includes \$3,000 of the financial benefit the firm obtained by permitting representatives to conduct a securities business while unregistered. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Boyd, allowed

unregistered employees to engage in a securities business and to function as representatives. The findings also stated that the firm, acting through Boyd, failed to ensure that individuals actively engaged in the trading of securities in the Nasdag and Over-the-Counter (OTC) markets were properly registered as equity traders in accordance with the NASD's Series 55 rule requirements. In addition, the NASD found that the firm, acting through Boyd, failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules applicable to the processing of registration applications. (NASD Case #C11000028)

Firms Fined

Bishop, Rosen & Co., Inc. (CRD #1248, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through Automated Confirmation Transaction Service[™] (ACT[™]), last sale reports of transactions in Nasdag National Market (NNM), Nasdaq SmallCapsM, eligible securities, and OTC Equity securities, and failed to designate through ACT such last sale reports as late. The findings also stated that the firm failed to transmit through ACT last sale reports of transactions in ACT eligible securities within 90 seconds of execution. (NASD Case #CMS000241)

Cantor Fitzgerald & Co. (CRD #134, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the

firm was censured, fined \$10,000. and ordered to revise its written supervisory procedures relating to the SEC and NASD firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented 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 the applicable securities laws and regulations concerning the SEC and NASD firm quote rules. (NASD Case #CMS000230)

EDI Financial, Inc. (CRD #15699, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$11,000, jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it effected the sale of municipal securities from its own account to that of a public customer at aggregate prices that were unfair and unreasonable in that the markups were 8.2 and 15.9 percent, respectively. The findings also stated that the firm failed to designate a principal responsible for the supervision of municipal securities activities, and failed to establish, maintain, and enforce written supervisory procedures designed to address municipal securities transactions. Furthermore, the NASD found that the firm failed to adequately implement the Firm Element of the NASD's Continuing Education Program in that the firm failed to develop a needs analysis and a written training plan for the firm's covered

registered persons. (NASD Case #C06000030)

First Security Van Kasper, Inc. (CRD #7665, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$16,500, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in NNM securities, failed to designate through ACT such last sale reports as late, failed to accept or decline to ACT transactions in eligible securities within 20 minutes of execution, and failed to report transactions to ACT within 90 seconds after execution. In addition, the NASD determined that the firm reported transactions in high yield corporate debt securities to the Fixed Income Pricing System[™] (FIPS) that it was not required to report, and executed short sale transactions and failed to report each of these transactions to ACT with a short sale indicator. The NASD also found that the firm's supervisory system failed to provide for supervision to ensure compliance with applicable security laws, regulations, and NASD rules concerning ACT reporting, trade reporting, short sales, and books and records. (NASD Case #CMS000245)

Garban Corporates LLC (CRD #2762, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in NNM and eligible securities and to designate them as late. The findings also stated that the firm failed to transmit within 90 seconds last sale reports of transactions in ACT eligible securities. (NASD Case #CMS000232)

The J.B. Sutton Group, LLC, n/k/a Global Capital Markets, LLC (CRD #16191, Syosset,

New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to indicate whether payment for order flow was received on customer confirmation statements and failed to accept or decline trades within 20 minutes of execution with respect to NNM, Nasdaq SmallCap, OTC Equity, and Third Market trades. The findings also stated that the firm traded ahead of customer limit orders for securities in which the firm made a market and failed to update immediately its quotation with respect to customer limit orders or otherwise failed to execute those orders. (NASD Case #C10000206)

Maple Partners, U.S.A., Inc. (CRD #33947, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$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 in NNM securities, at or below the inside bid when the current inside bid was below the preceding inside bid in each of the securities. The findings also stated that the firm executed short sale transactions in certain securities,

failed to annotate an affirmative determination for each of these transactions, and failed to report short sale transactions to ACT with a short sale indicator. In addition, the NASD found that the firm failed to establish, maintain, and/or enforce written supervisory procedures reasonably designed to achieve compliance with applicable NASD short sale rules. (NASD Case #C9B000038)

Pond Equities, Inc. (CRD #30934, Brooklyn, New York)

submitted a Letter of Acceptance, Waiver, and Consent in which it was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT, last sale reports of transactions in NNM, SmallCap, eligible, and OTC Equity securities, and failed to designate through ACT such last sale reports as late. The NASD also found that the firm failed to transmit last sale reports of transactions in ACT eligible securities within 90 seconds after execution. (NASD Case #CMS000236)

Preferred Securities Group, Inc. (CRD #35704, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$2,500, fined \$3,000 jointly and acverally with an individual

fined \$2,500, fined \$3,000 jointly and severally with an individual respondent, and fined \$8,000 jointly and severally with another individual respondent. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to post inventory positions and margin balances to its general ledger, and, as a result, its books and records, net capital computations, and FOCUS reports were inaccurate. The findings also stated that the firm failed to report riskless principal trades in a security, failed to promptly display or timely execute customer limit orders, and allowed an inactive registered representative to effect securities transactions for customers. (NASD Case #C07000083)

Wien Securities Corporation (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures. 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, the firm failed to execute orders presented at its 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 the applicable securities laws and regulations concerning the SEC and NASD firm guote rules. (NASD Case #CMS000228)

Wien Securities Corporation (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which it was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in NNM, Nasdag SmallCap, and eligible securities and to designate through ACT such last sale reports as late. The findings also stated that the firm failed to

transmit through ACT transactions in ACT eligible securities. (NASD Case #CMS000235)

W.S. Griffith & Co., Inc. (CRD #10410, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to amend its Form BD, and Forms U-5 and Forms U-4 for individuals, in a timely manner, after becoming aware of lawsuits filed against the firm and individuals alleging securities fraud, other securities law violations, and other misconduct. (NASD Case #C0100032)

Individuals Barred Or Suspended

Stephen Robert Ackley (CRD #1149303, Registered Representative, Springfield, Ohio) 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 \$32,919.38, plus interest, in restitution to public customers. Proof of restitution, with interest, shall be a prerequisite before reassociating with a member firm or before requesting relief from any statutory disgualification. Without admitting or denying the allegations. Ackley consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions. (NASD Case #C8B000018)

Christopher Aden (CRD #8977095, Associated Person, Yonkers. New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Aden engaged in the offer and sale of shares of stock through a private placement offering to members of the public, and induced investors to purchase or sell shares of stock by means of manipulative, deceptive, and other fraudulent devices or contrivances. In addition. Aden engaged in the securities business and functioned as a representative of his member firm prior to properly qualifying and registering in the appropriate capacity. Aden also failed to appear for an NASD on-the-record interview. (NASD Case #C8A990032)

Robert Babson Alling, III (CRD #2063488, Registered Representative, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one month. The fine must be paid before reassociating with a member firm following the suspension. Without admitting or denying the allegations, Alling consented to the described sanctions and to the entry of findings that he submitted a Uniform Application for Securities Industry Registration or Transfer (Form U-4) to the NASD and failed to disclose felony convictions.

Alling's suspension began December 18, 2000, and will conclude at the close of business on January 17, 2001. (NASD Case #C3A000044)

Matthew Francis Baas, III (CRD #2087476, Registered Representative, Rego Park, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Baas failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C10000115)**

Nicolette Silvestra Borgia-Beightol (CRD #1061842, **Registered Representative, Erie,** Pennsylvania) 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, Borgia-Beightol consented to the described sanction and to the entry of findings that she failed to respond to an NASD request for information regarding allegations that she received funds from a public customer for investment and failed to apply the funds as instructed. (NASD Case #C9A000042)

Lawrence Dean Burke, Jr. (CRD #2255621, Registered Representative, Fresh Meadows, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay \$3,000 in restitution to a public customer. Proof of restitution shall be a prerequisite before reassociating with a member firm or before requesting relief from statutory disqualification. Without admitting or denying the allegations, Burke consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing written notice to, or receiving written approval from, his member firm. The findings also stated that Burke converted and/or improperly used a \$3,000 payment he received from a public customer and failed to respond to an NASD request for information. (NASD Case #C10000160)

Jeffrey John Chaimowitz (CRD #2589437, Registered Principal, Rocky Point. New York) submit-

ted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chaimowitz consented to the described sanction and to the entry of findings that he failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10000066)

Richard Philip Chingos (CRD #2504767, Registered Representative, Long Island City, New

York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chingos consented to the described sanction and to the entry of findings that he executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Chingos failed to respond truthfully, accurately, non-deceptively, and/or completely during an NASD on-the-record interview. (NASD Case #C1000095)

Arthur William Clements (CRD #2112373, Registered Representative, Andora, Connecticut)

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 \$40,000, plus interest, in restitution to a public customer. Satisfactory proof of restitution payment, with interest, shall be a prerequisite before requesting relief from statutory disqualification. Without admitting or denying the allegations, Clements consented to the described sanctions and to the entry of findings that he made improper use of at least \$40,000 belonging to one of his clients. (NASD Case #C11000029)

William Michael Cutrone (CRD #2542314, Registered Representative, Woodbury, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay \$51,873.72, plus interest, in restitution to public customers. Proof of restitution is required before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cutrone consented to the described sanctions and to the entry of findings that he 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 engaged in, and/or induced others to engage in a device, scheme, or artifice to defraud, the use of untrue statements of material fact and/or the omission of material facts necessary to make statements made, in light of the circumstances, not misleading, and acts, practices, or courses of business that operated as a fraud or deceit upon persons. Cutrone made misrepresentations including specific price predictions for speculative securities, omitted negative information about a security being recommended, and failed to make any disclosure of risk. The findings also stated that Cutrone executed unauthorized trades in the accounts of public customers without the necessary discretionary trading authority, failed to execute customer sell orders, and failed to disclose when he solicited purchase orders that he would refuse or discourage the sale of securities. The NASD also found that Cutrone failed to respond to NASD requests for information. (NASD Case #CAF000009)

William Charles DeMorrow, III (CRD #1144637, Registered Principal, Hudson, 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, DeMorrow consented to the described sanction and to the entry of findings that he participated in the sale of promissory notes to public customers and failed to give his member firm prior written notice of his participation in such sales. DeMorrow also failed to respond to an NASD request for information and documents. (NASD Case #C0700082)

James Jay Dorney (CRD #2335567, Registered Representative, Superior, Colorado)

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, Dorney consented to the described sanction and to the entry of findings that he appropriated for his own use approximately \$25,000 that was intended to be the principal of trusts for which he was the trustee. (NASD Case #C3A000048)

Stephen Kenneth Faber (CRD #2132958, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity, ordered to pay \$11,173, plus interest, in restitution, and ordered to disgorge \$920.28 in commissions. The sanctions were based on findings that Faber effected unauthorized transactions in the account of public customers without the knowledge or consent of the customers and without written or oral authorization to exercise discretion in the account. The findings also stated that Faber failed to respond to NASD requests for information. (NASD Case #C10000112)

Robert John Faleska (CRD #204040, Registered Representative, Carteret, 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, Faleska consented to the described sanction and to the entry of findings that he submitted fictitious life insurance applications to his member firm. (NASD Case #C10000205)

Matthew Craig Fine (CRD #2841607, Registered Representative, Fort Lee, 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, Fine consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #C9B000033)

Darrell Wayne Flowers, Sr. (CRD #2242139, Registered Representative, Fairview, Tennessee)

submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Flowers consented to the described sanctions and to the entry of findings that he exercised discretionary authority in the accounts of a public customer by executing equity transactions without the customer's prior written authorization and his member firm's written acceptance of the accounts as discretionary. The findings also stated that Flowers shared in the profits of a customer's account without prior written authorization from his firm and executed purchase transactions in the account without the customer's prior knowledge, authorization, or consent.

Flowers' suspension began January 2, 2001, and will conclude January 1, 2003. (NASD Case #C10000103)

Gines Jose Garcia (CRD #2863499, Registered Representative, Paterson, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he

Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Garcia consented to the described sanctions and to the entry of findings that he engaged in the unauthorized purchase of shares of stock for the account of a public customer.

Garcia's suspension began December 18, 2000, and concluded at the close of business on December 22, 2000. (NASD Case #C9B000031)

Max Gordon Gladstone (CRD #2220722, Registered Representative, New York, 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 reassociating with an NASD member firm. Without admitting or denying the allegations, Gladstone consented to the described sanctions and to the entry of findings that he purchased shares of stock in the account of a public customer without the knowledge or consent of the customer and in the absence of written or oral authorization to exercise discretion.

Gladstone's suspension began December 18, 2000, and concluded at the close of business on January 2, 2001. (NASD Case #C10000202)

John Patrick Goldsworthy (CRD #730533, Registered Representative, Harahan, Louisiana) was barred from association with any NASD member in any capacity. The NAC imposed the sanctions following a remand by the SEC. The sanction was based on findings that Goldsworthy engaged in private securities transactions without prior written notice to, and written approval from, his member firm.

Goldsworthy has appealed this action to the SEC and all sanctions, other than the bar, are not in effect pending consideration of the appeal. (NASD Case #C05940077)

Brett Howard Hamburger (CRD #1974666, Registered Representative, Sunrise, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Hamburger effected unauthorized transactions in the account of a public customer without obtaining authorization from the customer. The findings also stated that Hamburger misrepresented his identity to a public customer and solicited the purchase and sale of securities without being properly registered with the NASD and the State of Illinois through a member firm. The NASD also found that Hamburger failed

to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10990210)

Timothy Lane Hamilton (CRD #1049533, Registered Representative, Dayton, Ohio) 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 \$19,271.44, plus interest, in restitution to public customers. Proof of restitution, with interest, shall be a prerequisite before reassociating with a member firm or before requesting relief from statutory disgualification. Without admitting or denying the allegations, Hamilton consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm, failed to provide the firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions. (NASD Case #C8B000019)

Reinhard Hermes (CRD #1597099, Registered Principal, Laguna Niguel, California) sub-

mitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with a member firm or before requesting relief from any statutory disgualification. Without admitting or denying the allegations. Hermes consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide written notice to the NASD describing in detail the proposed transactions, his proposed role, and stating whether he had received or might receive selling compensation in

connection with the transactions.

Hermes' suspension began January 2, 2001, and will conclude on January 1, 2003. **(NASD Case #C02000065)**

William Edson Howard, III (CRD #1395976, Registered Representative, Ft. Pierce, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 12 months. The fine must be paid before reassociating with a member firm or before requesting relief from statutory disgualification. Howard must also demonstrate that he has paid \$12,708, that represents his financial benefit from private securities transactions, to the trustee in bankruptcy of a company before reassociating with a member firm or before requesting relief from statutory disqualification. Without admitting or denying the allegations. Howard consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing his member firm prior written notice of his intention to participate and without seeking or receiving the permission of his member firm since the transactions were "for compensation."

Howard's suspension will begin January 16, 2001, and will conclude at the close of business on January 15, 2002. (NASD Case #C3A000047)

Mizanul Kabir (CRD #2128146, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity and ordered to pay \$26,481.25, plus interest, in restitution to a public customer. The sanctions were based on findings that Kabir knowingly or recklessly made fraudulent misrepresentations and omissions to a public customer regarding a security and failed to disclose material information relating to the risks associated with an investment. The findings also stated that

Kabir falsely informed the customer that he was required to purchase securities in the aftermarket. The NASD also found that Kabir opened a new brokerage account at his member firm for a customer without the customer's prior knowledge, authorization, or consent and effected an unauthorized transaction in the account. (NASD Case #C10000071)

Gordon Kerr (CRD #268444, Registered Representative,

Walnut, California) was barred from association with any NASD member in any capacity. The SEC affirmed the sanction following appeal of a December 1999 NAC decision. The sanction was based on findings that Kerr functioned as a securities principal while he was barred from acting in that capacity. (NASD Case #C02980051)

Mohammad Ali Khan (CRD #1923986, Registered Representative, Franklin Park, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Khan failed to respond to NASD requests to appear for on-the-record interviews. (NASD Case #C10990220)

Thomas Joseph Klima (CRD #2512872, Registered Representative, Chandler, Arizona) 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, Klima consented to the described sanction and to the entry of findings that he transferred funds from customer accounts, and without the knowledge or consent of the customers, converted the funds to his own use and benefit. **(NASD Case #C04000037)**

Timothy James Lease (CRD #1968334, Registered Principal, Lancaster, Pennsylvania) sub-

mitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 18 months. In light of the financial status of Lease, no monetary sanction has been imposed. Without admitting or denying the allegations, Lease consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. The findings also stated that Lease recommended and purchased promissory notes for the account of public customers and failed to have reasonable grounds for believing that these recommendations and resulting transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs.

Lease's suspension began December 18, 2000, and will conclude at the close of business on June 17, 2002. (NASD Case #C9A000040)

Joseph Xavier Loftus, Jr. (CRD #2725482, Registered Principal, Hoboken, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,418.75, which included the disgorgement of commissions earned of \$418.75, suspended from association with any NASD member in any capacity for 10 business days, and ordered to pay \$6,612.50, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Loftus consented to the described sanctions and to the entry of findings that he recommended the purchase of shares of stock to a public customer that was unsuitable given the customer's financial status, investment objectives, and investment experience.

Loftus' suspension began December 4, 2000, and concluded at the close of business on December 15, 2000. (NASD Case #C10000193)

Joaquin Lopez, III (CRD #4068288, Registered Representative, Aurora, Colorado)

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, Lopez consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #C3A000035)

Francis Albert Lupo (CRD #2387813, Registered Representative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Lupo failed to respond to NASD requests to appear for on-the-record interviews. (NASD Case #C10000096)

Anthony Andrew Marx, Jr. (CRD #2180220, Registered Representative, Astoria, New York) was barred from association with any NASD member in any capacity and ordered to pay \$91,080.36, plus interest, in restitution to his former member firm. The sanctions were based on findings that Marx effected unauthorized transactions in the account of public customers without their prior knowledge, authorization, or consent. The findings also stated that Marx drew checks on the funds in the account of public customers, endorsed the checks with the payees' signatures and his own signature without the knowledge or consent of the customers, deposited the funds into his personal bank account, and converted funds totaling \$13,623.71 to his own use and benefit. Marx also failed to respond to NASD requests for information. (NASD Case #C10000100)

Eugene McCall, Jr. (CRD #2276981, Registered Representative, Elida, Ohio) 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 \$241,344.55, plus interest, in restitution to public customers. Proof of restitution must be submitted before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, McCall consented to the described sanctions and to the entry of findings that he sold purported "investments" to public customers totaling \$241,344.55 and received at least \$201,046.81 from the account into which these funds were placed and used the funds for his own benefit, without the knowledge or consent of the customers. The findings also stated that McCall provided materially false, inaccurate, and misleading information in response to an NASD request for information and failed to respond to NASD requests for information and documents. (NASD Case #C8B000016)

Thomas Michael McDermott (CRD #326652, Registered Principal, Bloomfield, New Jersey) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member as a general securities principal for 60 days. Without admitting or denying the allegations, McDermott consented to the described sanctions and to the entry of findings that he failed to implement, maintain, and enforce an effective supervisory system and written procedures that would have enabled his member firm to comply with federal securities laws and NASD rules to detect and prevent illegal bidding for, purchasing, or inducing others to purchase a security in the secondary market while a distribution was still in progress.

McDermott's suspension began January 2, 2001, and will conclude at the close of business on March 2, 2001. (NASD Case #C10000029)

Robin Bruce McNabb (CRD #1016598, Registered Principal, San Jose, California) was cen-

sured, fined \$50,000, and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of a March 1999 NAC decision. The sanctions were based on findings that McNabb participated in private securities transactions without giving prior written notification to his member firm. The findings also stated that McNabb recommended to public customers the purchase of securities without having reasonable grounds for believing that the investments were suitable for the customers in light of the facts disclosed by the customers regarding their other security holdings, and their financial situation, and needs.

McNabb has appealed this action to the U.S. Court of Appeals for the Ninth Circuit and the sanctions, other than the bar, are not in effect pending consideration of the appeal. (NASD Case #C01970021)

Douglas Takeshi Nonaka (CRD #1757727, Registered Representative, Aiea, Hawaii) 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, should he seek reentry into the securities industry, that he has paid \$7,680 to the trustee in bankruptcy of an issuer or to individual investors. Without admitting or denying the allegations, Nonaka consented to the described allegations and to the entry of findings that he engaged in private securities transactions without providing prior written notice to his member firm. The NASD also found that Nonaka failed to respond to NASD requests for information. (NASD Case #C3A000045)

Nelson Chukwunyere Onyejiaka (CRD #2864207, Registered Representative, Southbound Brook, New Jersey) was fined \$5,000 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before reassociating with a member firm following the suspension. The Office of Hearing Officers (OHO) imposed the sanctions following the call for review and remand by the NAC. The findings stated that Onyejiaka failed to disclose his felony conviction on a Form U-4.

Onyejiaka's suspension began January 2, 2001, and will conclude at the close of business on July 1, 2002. **(NASD Case #C10990121)**

Marlon Gerbacio Pamintuan (CRD #2721666, Registered Representative, Hayward, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Pamintuan failed to respond to NASD requests for information. (NASD Case# C02000033)

Stearns Charles Pluff, III (CRD #1056497, Registered Representative, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations. Pluff consented to the described sanctions and to the entry of findings that he shared directly in the losses in a customer's account when he transferred \$49.995 to a customer to compensate the customer for losses and failed to obtain prior written authorization from his member firm.

Pluff's suspension began December 18, 2000, and concluded at the close of business on December 22, 2000. (NASD Case #C06000028)

David Andrew Roshco (CRD #2013641, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Roshco failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10000090)

Robert David Ross (CRD #404593, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for six months. In light of the financial status of Ross, no monetary sanction has been imposed. Without admitting or denying the allegations, Ross consented to the described sanction and to the entry of findings that he effected the purchase of shares of stock in the accounts of public customers without their prior knowledge, authorization, or consent.

Ross' suspension began December 11, 2000, and will conclude on June 10, 2001. (NASD Case #CMS000237)

David Robert Scholle (CRD #2461242, Registered Representative, Pittsburgh, Pennsylvania)

was barred from association with any NASD member in any capacity. The sanction was based on findings that Scholle received approximately \$3,500 from public customers to pay premiums for auto and homeowners insurance policies, failed to pay or direct the payment of the premiums, and converted the \$3,500 to his own use and benefit without the customers' knowledge or consent. The findings also stated that Scholle failed to respond to NASD requests for information. (NASD Case #C9A000021)

Anthony Douglas Schupp (CRD #1012126, Registered Representative, Shrewsbury, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for one year, ordered to disgorge the \$2,608 in commissions received in connection with the violative transactions, plus interest, in partial restitution to a public customer. The fine must be paid and satisfactory proof of disgorgement and partial restitution, with interest, must be submitted before reassociating with a member firm following the suspension or before requesting relief from any statutory disgualification. Without admitting or denying the allegations, Schupp consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Schupp's suspension began January 2, 2001, and will conclude on January 1, 2002. (NASD Case #C11000030)

Steven Arthur Scott (CRD #1174431, Registered Representative, Laguna Hills, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with a member firm following the suspension or before requesting relief from any statutory disgualification. Without admitting or denying the allegations, Scott consented to the described sanctions and to the entry of finding that he participated in private securities transactions and outside business activities without providing prior oral or written notification to, and receiving permission from, his member firm.

Scott's suspension will begin January 16, 2001, and will conclude at the close of business on January 15, 2003. **(NASD Case #C02000069)**

Russell Bruce Simmons (CRD #2934499, Registered Representative, Valrico, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 120 days, and ordered to disgorge \$6,035.97 in commissions to public customers. Without admitting or denying the allegations. Simmons consented to the described sanctions and to the entry of findings that prior to his association with a member firm, he engaged in the sale of promissory notes to public customers and failed to disclose this activity to the firm, and continued to sell the notes after he became an associated person at the firm. Furthermore, the NASD determined that Simmons failed to submit written notice to, and obtain authorization from, the firm to continue in his sales of promissory notes.

Simmons' suspension will begin January 16, 2001, and will conclude at the close of business on May 15, 2001. (NASD Case #C07000093)

Peter John Sinram (CRD #825018, Registered Representative, Valley Stream, 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, Sinram consented to the described sanction and to the entry of findings that he engaged in trading certain bond positions of his member firm and failed to disclose to the firm material information pertaining to the trading. The findings also stated that Sinram provided false and misleading market valuations to his member firm with respect to the bond positions. The NASD also found that Sinram failed to respond to NASD requests for information. (NASD Case #C10000203)

Jan Melvin Siroky (CRD #425443, Registered Representative, Colorado Springs,

Colorado) 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, Siroky consented to the described sanction and to the entry of findings that he accepted funds from a public customer intended for investment and retained possession and control of the funds prior to applying them to the intended investment, thereby misusing customer funds. **(NASD Case #C3A000049)**

Virginia Marie Smith (CRD #3245980, Associated Person, Randolph, New Jersey) submit-

Randolph, New Jersey) 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 30 days. The fine must be paid before reassociating with a member firm. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that she failed to respond truthfully on a Form U-4 and failed to disclose that she had pled guilty to several drug-related charges in the State of New Jersey.

Smith's suspension began January 2, 2001, and will conclude at the close of business on January 31, 2001. **(NASD Case #C9B000036)**

Renjun Song (CRD #2399859, Registered Representative, Philadelphia, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Song failed to respond to NASD requests for information. (NASD Case #C9A000024)

Michael Joel Spillert (CRD #1711695, Registered Representative, Parsippany, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations. Spillert consented to the described sanctions and to the entry of findings that he drafted a change of broker of record request letter, and forged a public customer's signature on the letter, without the customer's prior knowledge or consent.

Spillert's suspension began January 2, 2001, and will conclude on January 1, 2002. **(NASD Case #C9B000035)**

Richard Lee Stevens (CRD #852090, Registered Representative, Valley Cottage, New York)

submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Stevens consented to the described sanctions and to the entry of findings that he forged the signature of public customers on insurance replacement forms without their prior knowledge or consent.

Steven's suspension began January 2, 2001, and will conclude at the close of business on January 31, 2001. (NASD Case #C9B000032)

Charles Wesley Testino, Jr. (CRD #1216651, Registered Representative, Tucson, Arizona) was fined \$177,000, suspended from association with any NASD member in any capacity for six months, and ordered to regualify by exam as an investment company and variable contracts products representative before associating again with a member firm. The Office of Hearing Officers imposed the sanctions following a call for review and remand by the NAC. The sanctions were based on findings that Testino engaged in private securities transactions without prior notice to his member firm.

Testino's suspension began December 4, 2000, and will conclude at the close of business on June 4, 2001. **(NASD Case #C3A990031)**

Robert Alden Thayer (CRD #874129, Registered Principal, Colorado Springs, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. In light of the financial status of Thayer, no monetary sanction has been imposed. Without admitting or denying the allegations, Thayer consented to the described sanction and to the entry of findings that he failed to implement an effective system for monitoring his member firm's equities division to prevent price manipulation of a private placement, failed to monitor the activities of an individual, and failed to enforce provisions of the firm's policy and procedure manual. The findings also stated that Thayer failed to establish, maintain, and enforce procedures reasonably designed to achieve compliance with the penny stock rules. The NASD also found that Thaver failed to disclose and confirm in writing to public customers the control relationship between his member firm and a security.

Thayer's suspension began January 2, 2001, and will conclude on January 1, 2003. (NASD Case #CAF000031)

Thomas K. Van Ahn (CRD #2117531, Registered Representative, Oshkosh, Wisconsin) submitted a Letter of Acceptance. Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Van Ahn consented to the described sanctions and to the entry of findings that he failed to send copies of order tickets for all trades placed directly with the clearing firm to the main office. The findings also stated that Van Ahn placed options transactions for his own account without the approval of the firm's officers, general securities principals, or the registered options principal.

Van Ahn's suspension began December 18, 2000, and

concluded at the close of business on January 2, 2001. (NASD Case #C8A000068)

Lester Henry Veltman, Jr. (CRD #454075, Registered Representative, Tulsa, Oklahoma) submit-

ted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Veltman consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, and receiving permission from, his member firm.

Veltman's suspension will begin January 16, 2001, and will conclude at the close of business on February 15, 2001. (NASD Case #C3A000050)

Jonathan Hudson Webb (CRD #1408674, Registered Principal, Evanston, Illinois) was fined \$10,000, barred from association with any NASD member in any principal, supervisory, or proprietary capacity, and suspended from association with any NASD member in any capacity for six months. The NAC imposed the sanctions following appeal and call for review by the NAC of an Office of Hearing Officers decision. The sanctions were based on findings that a member firm, acting through Webb, conducted business while failing to maintain the minimum required net capital, failed to comply with the terms of its restrictive agreement by failing to maintain minimum net capital, prepared inaccurate general ledger, trial balance, and net capital computation, and filed inaccurate FOCUS Part IIA reports. In addition, the firm, acting through Webb, conducted a municipal securities business while failing to employ a properly

qualified and registered municipal securities principal, a financial and operations principal, and properly qualified registered general securities principals. Furthermore, Webb acted in the capacity of a municipal securities principal without being properly qualified and registered in such capacity, and failed to respond completely to NASD requests for information and documents. Webb also failed to disclose on Forms U-5 and U-4 that he was the subject of an NASD investigation.

Webb's suspension began January 2, 2001, and will conclude at the close of business on July 1, 2001. **(NASD Case #C8A980059)**

Donny Randall Wells (CRD #1089583. Registered Representative, Santa Rosa, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000, suspended from association with any NASD member in any capacity for four months, and required to requalify by taking and passing the Series 7 exam. Without admitting or denying the allegations, Wells consented to the described sanctions and to the entry of findings that he failed to inform public customers and his member firm, that an individual subject to an NASD bar was making false assertions and generating false documents to make customers believe that their mutual fund investments were invested with or through a member firm. Furthermore, the NASD found that Wells failed to disclose to his present member firm, in a timely manner, that he was named as a defendant in lawsuits pertaining to the individual's misconduct, and failed to keep his registration information current by amending a Form U-4 to disclose the lawsuits, in a timely manner.

Wells' suspension began January 2, 2001, and will conclude at the close of business on May 1, 2001. (NASD Case #C01000033)

Eric John Whittemore (CRD #2739516, Registered Representative, Manchester, New Hampshire) 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, Whittemore consented to the described sanction and to the entry of findings that he misappropriated \$4,930 belonging to the branch office of a member firm. (NASD Case #C11000027)

Ira Marcrobert Zadikow (CRD #1385075, Registered Principal, New York, 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 five days. Without admitting or denying the allegations, Zadikow consented to the described sanctions and to the entry of findings that he effected transactions in a public customer's account without confirming such transactions with the customer.

Zadikow's suspension began January 2, 2001, and concluded on January 6, 2001. (NASD Case #C9B000034)

Individual Fined

Robert D. Michaux (CRD #2780470, Registered Representative, Richmond, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$17,500. For six months following acceptance of the AWC, he may become associated with an NASD member in a non-registered capacity, but may not become associated with an NASD member in any capacity that requires registration, including but not limited to, the solicitation and recommendation of securities transactions to customers or otherwise handling or servicing customer accounts. For 12 months following the six-month period, Michaux may become associated with an NASD member in a registered capacity, but only if the firm has adopted and implemented procedures for supervising him. Without admitting or denving the allegations, Michaux consented to the described sanctions and to the entry of findings that he effected unsuitable and excessive trades in the account of a public customer. The findings also stated that Michaux exercised discretion in the accounts of public customers without having said discretion evidenced in writing and without having the account approved as discretionary by his member firm. In addition, the NASD determined that Michaux placed false information regarding a customer's margin trading experience on a margin account approval form. (NASD Case #C0700092)

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review as of December 22, 2000. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

John Lawson Greer, III (CRD #860076, Registered Principal, Knoxville, Tennessee) was fined \$5,000, suspended from association with any NASD member in any capacity for two weeks, and

ordered to sit for the supervisory section of the Continuing Education Program, Regulatory Element, within 180 days from the date the decision becomes final. Greer was also ordered to hereafter be employed by a member firm that will agree to have all new account forms for Greer and his customers reviewed by the firm's compliance department. The sanctions were based on findings that Greer established an account for a fictitious customer, completed account forms for the fictitious customer, and attempted to effect a purchase in the account. The findings also stated that Greer established the account to effect personal transactions in a dishonest manner to avoid detection from his member firm.

This action has been called for review by the NAC and the sanctions are not in effect pending consideration of the review. (NASD Case #C05990035)

Kevin Lee Otto (CRD #1929973, Registered Representative,

Milwaukee, Wisconsin) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of a June 1999 NAC decision. The sanctions were based on findings that Otto received \$22,000 from a public customer and used the funds for some purpose other than for the benefit of the customer, without the customer's knowledge or authorization, before he returned the funds to the customer at a later date.

Otto has appealed this case to the U.S. Court of Appeals for the Seventh Circuit and all sanctions, other than the bar, are not in effect pending consideration of the appeal. (NASD Case #C8A970015)

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.

James Henry Bond, III (CRD #2001777, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts of public customers without their knowledge or consent and in the absence of written or oral authorization to exercise discretion in their accounts. (NASD Case #C10000210)

Mark Alan Goldberg (CRD #2481041, Registered Representative, Ft. Lauderdale, Florida) was named as a respondent in an NASD complaint alleging that he recommended to public customers the purchase of shares of stock and made predictions and misrepresentations concerning the stock, without having a reasonable basis for his representations to customers. The complaint also alleges that Goldberg failed to respond to NASD requests for information. (NASD Case #C07000094)

Kenneth Edward Hetlinger (CRD #1260242, Registered Representative, Mundelein, Illinois) was named as a respondent in an NASD complaint alleging that he caused over \$74,000 to be wire-transferred from the account of a public customer to his attorney's account, and used the funds for either his own benefit or for some purpose other than for the benefit of the customer, without the customer's knowledge or consent. The complaint also alleges that Hetlinger failed to respond to NASD requests for documents and information. (NASD Case #C8A000072)

George Honorato Malagon, Jr. (CRD #2088064, Registered Principal, Fresh Meadows, New

York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized trading in the account of a public customer without the discretionary trading authority for the account. The complaint also alleges that Malagon failed to disclose material facts to public customers that a reasonably prudent customer would have wanted disclosed in making investment decisions and that Malagon had a duty to disclose. (NASD Case #CAF000046)

Albert Medina (CRD #2730223, Registered Representative, Lauderhill, Florida) was named as a respondent in an NASD complaint alleging that he effected securities transactions without obtaining prior authorization from the customers. In addition, the complaint alleges that Medina failed to timely respond to NASD requests for information. (NASD Case #C07000086)

Petra Moreno (CRD #1738689, Registered Representative, El Paso, Texas) was named as a respondent in an NASD complaint alleging that she received checks totaling \$427.46 that represented payments for a life insurance policy the customer purchased, cashed the checks, and used the funds for her own use and benefit, without the authorization, knowledge, or consent of the customer. The complaint also alleges that Moreno failed to respond to NASD requests for information. (NASD Case #C06000032)

Keith Richard Procovic (CRD #2202049, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he effected the purchase of securities in the joint account of public customers without their knowledge or prior authorization. The complaint also alleges that Procovic failed to respond to NASD requests for information. (NASD Case #C07000087)

Walter Ray Reinhardt (CRD #2468084, Registered Representative, Hillsborough, North Carolina) was named as a respondent in an NASD complaint alleging that he engaged in private securities transactions by selling promissory notes to public customers and failed to receive written permission from his member firm to participate in such transactions. The NASD also alleges that Reinhardt forged the signatures of a public customer on several account transfer documents without prior authorization from the customer. (NASD Case #C0700090)

Alfred Salazar (CRD #1059427, **Registered Principal, Littleton,** Colorado) was named as a respondent in an NASD complaint alleging that by the use of means and instrumentalities of interstate commerce, or of the mails, directly or indirectly, he made untrue statements of material fact in connection with the purchase or sale of a security. The complaint alleges that Salazar effected transactions by means of a manipulative, deceptive, or other fraudulent device or contrivance and approved a private placement memorandum that contained materially false statements or acted with reckless disregard as to

the truth or falsity of the statements contained in the memorandum. The complaint also alleges that Salazar failed to disclose and confirm in writing to public customers the control relationship between his member firm and the security in which the firm made a market. In addition, the complaint alleges that Salazar failed to respond to NASD requests for information, documentation, and to appear to give testimony. **(NASD Case #CAF000048)**

Vadim Steven Shapiro (CRD #2562368, Registered Representative, Baltimore, Maryland) was named as a respondent in an NASD complaint alleging that in connection with an inducement to purchase or sell a security, through means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly employed a device, scheme or contrivance, omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon public customers. The complaint alleges that Shapiro made material misrepresentations including specific and substantial price predictions and omitted material facts regarding a security's losses and poor performance. The complaint also alleges that Shapiro failed to execute customer sell orders. (NASD Case #C10000207)

Donna Michelle Thomas-Gardner (CRD #2808748, Registered Representative, East Point, Georgia) was named as a respondent in an NASD complaint alleging that she caused a public customer's name on a brokerage account at her member firm to be changed to the name of her landlord, and further changed the address of record on the customer's account, without the authorization of the customer. The complaint also alleges that Thomas-Gardner caused cashier's checks to be issued that were drawn against the customer's account and failed to submit the debit memoranda and copies of the cashier's checks to the home office. As a result, the NASD alleges that while these checks were honored by the member firm, they were not debited against the account, and the checks were negotiated and the proceeds were used for her own benefit. The complaint further alleges that Thomas-Gardner failed to respond to NASD requests for information. (NASD Case #C07000081)

Vincent Bernard Tolbert (CRD #2343655, Registered Representative, Killeen, Texas) was named as a respondent in an NASD complaint alleging that he received \$260 in cash from a public customer representing premium payments for a homeowner's insurance policy and converted the funds to his own use and benefit without the authorization, knowledge, or consent from the customer. In addition, the complaint alleges that Tolbert failed to respond to NASD requests for information. (NASD Case #C0600034)

Firm Suspended

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The 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. James W. Twohig & Company, Princeton, West Virginia (December 6, 2000)

Firms Expelled For Failure To Pay

Fines/Costs And/Or Provide Proof Of Payment In Connection With Violations

L.H. Alton & Company, San Francisco, California (November 20, 2000)

Trafalgar Financial Services, Inc., Boston, Massachusetts (November 20, 2000)

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

Alton, Lewis H., San Francisco, California (November 20, 2000)

Bauer, John L., Bronx, New York (November 20, 2000)

Elio, Carmen W., Jr., Medford, Massachusetts (November 20, 2000)

Elio, Michael A., Medford, Massachusetts (November 20, 2000)

Eliscu, Mathew B., Chicago, Illinois (November 20, 2000)

Fried, Brian A., Smithtown, New York (November 20, 2000)

Furman, Len K., Brandenton, Florida (November 20, 2000)

Jasovsky, Darin, Bayonne, New Jersey (November 20, 2000)

Pinchas, Rafael, Hillcrest, New York (November 20, 2000)

Shvarts, Aleksandr, Brooklyn, New York (November 20, 2000)

Vultaggio, Jack, Tewksbury, Massachusetts (November 20, 2000)

Individuals Suspended Pursuant To NASD Rule 9540 Series For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)

Bell, Timothy E., Winterville, Ohio (November 24, 2000)

Grieg, Tommy A., Santa Maria, California (December 8, 2000)

Lewis, Gregory, Milwaukee, Wisconsin (December 1, 2000)

The American Stock Exchange, NASD Regulation, and the New York Stock Exchange Jointly Fine Morgan Stanley & Co. Incorporated \$200,000

The American Stock Exchange, LLC, NASD Regulation, Inc., and the New York Stock Exchange, Inc., as a result of a coordinated investigation, announced that Morgan Stanley & Co. Inc. consented to a censure and \$200,000 fine for violations arising from the inaccurate reporting of short interest from November 1996 to August 1998. Morgan Stanley also has consented to an undertaking regarding its procedures for reporting short interest to the three self-regulatory organizations (SROs). The disciplinary actions were brought by the three SROs and the fine imposed will be paid jointly to them by Morgan Stanley.

The Amex, NASD Regulation, and the NYSE found that during the 22-month period, Morgan Stanley inaccurately reported to the three SROs short positions in numerous securities as required by the rules of the SROs. The inaccurate reporting resulted from Morgan Stanley's overstating short positions that ranged from over 1,000 shares to over 1 million shares in certain securities. The SROs found that the inaccuracies were caused

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by the firm's failure to properly program its mainframe computer.

The SROs require each firm to maintain a record of total "short" positions in all customer and proprietary firm accounts in listed securities and report the information monthly to its SRO. A short position occurs when a security is sold that the seller does not own. The security is borrowed by, or for the account of, the seller. The seller maintains the short position until, at a later date, it is purchased and/or delivered for the account.

The reporting inaccuracies were initially discovered by the Amex in October 1998 as a result of an inquiry made to Morgan Stanley regarding a large change in the reported short position in an Amex-listed security. Morgan Stanley did not disclose the matter to all of the SROs until late November 1998, approximately three months after it became aware of the reporting inaccuracies.

The three SROs found that Morgan Stanley failed to provide reasonable supervision of its business activities in reporting to the SROs short positions in securities and failed to establish and maintain adequate procedures and controls to ensure compliance with its reporting obligations. Among other things, the SROs found that the firm failed to have in place adequate procedures to audit or review its computer systems to ensure that short position reports were prepared in a manner consistent with SRO rules; written procedures for the supervision of the steps to be followed by firm personnel for the preparation and submission of short position reports; and systems and procedures of follow-up and review adequate to ensure that the SROs were promptly notified after the

discovery of the inaccurate reporting of short positions.

Morgan Stanley, which neither admitted nor denied the SROs' allegations or findings, has undertaken to review its procedures for reporting short interest to the SROs and has agreed to implement the appropriate new procedures (in addition to procedures implemented by the firm in August 1998) to ensure compliance with applicable SRO rules and the federal securities laws.

NASD Regulation Sanctions Providential Securities, Inc. And Bars Principal, Henry Fahman

NASD Regulation announced it has sanctioned and fined Providential Securities, Inc., of Orange County, CA, \$115,000 and has permanently barred its Chairman and CEO, Henry Fahman, for violation of numerous NASD rules and federal securities laws. In addition, the firm agreed to return funds to customers who invested in its private placement between December 1998 and June 1999.

NASD Regulation found that between December 1998 and June 1999, Providential sold its corporate shares to public customers through Providential Securities, Inc.'s private placement memorandum. Providential and Fahman misrepresented to investors through, and failed to provide them with complete and accurate information in, the private placement memorandum in their attempt to raise money for the firm. NASD Regulation also found that the customer funds generated from Providential's private placement were not protected in accordance with the NASD's rules and federal securities laws, and ultimately were used by the firm for purposes than originally described. In addition, NASD Regulation found that Providential and Fahman improperly operated unregistered branch offices, allowed unregistered individuals to participate in its securities business, and violated the NASD's advertising rules in connection with the firm's Web site.

Without admitting or denying NASD Regulation's allegations, Providential and Fahman agreed to settle the charges. NASD Regulation's Los Angeles District Office investigated this matter.

NASD Regulation wishes to acknowledge the assistance in this matter provided by the staff of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs. Henry Fahman testified before the Subcommittee during its hearings on day trading in February 2000.