

Disciplinary Actions

Disciplinary Actions Reported For September

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 August 18, 2000.

Firms Expelled, Individuals Sanctioned

Landmark International Equities, Inc. (CRD #25098, Westbury, New York) and Eric Jay Aronson (CRD #1912232, Registered Representative, Muttontown, New York).

The firm was fined \$10,000, expelled from NASD membership, and barred from engaging in any public distribution of securities or from buying or selling Rule 144 stock. The fine is due and payable if the firm seeks membership in the NASD. Aronson is barred from association with any member firm in any capacity. The sanctions are based on findings that the firm and Aronson tied purchases in an initial public offering (IPO) to purchases in the aftermarket and pre-arranged the purchase of securities in the immediate aftermarket and that Aronson, as a controlling person, was responsible for the firm's activities. The findings also stated that the firm, Aronson, and another individual engaged in fraudulent, deceptive trading and sales practices by pre-arranging with customers to sell IPO securities back to the firm in the immediate aftermarket in order for the firm to pre-plan aftermarket trading and to pre-arrange aftermarket purchases. In addition, the NASD found that the firm and Aronson engaged in a redistribution of the flippers' units in

the IPO and failed to sell Rule 144 stocks in conformity with the rule and used special compensation to registered representatives for after-market sales. Furthermore, the firm failed to establish, maintain, and enforce written procedures to supervise its business activities and the activities of its registered representatives and associated persons in regard to underwriting and distribution activities. The firm also permitted individuals to engage in the sale of securities without being registered and failed to supervise the registration of representatives. Aronson also failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #CAF980098)**

Tiger Investment Group, Inc. (CRD #39388, Waltham, Massachusetts) and Edmund Thomas O'Brien, II (CRD #2667935, Registered Principal, Weston, Massachusetts). The firm was expelled from NASD membership and O'Brien was barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm and O'Brien failed to respond to NASD requests for information. **(NASD Case #C11000002)**

Firms And Individuals Barred Or Suspended

L.H. Alton & Company (CRD #15682, San Francisco, California) and Lewis Hunt Alton (CRD #4109, Registered Principal, San Francisco, California) were censured and fined \$40,000, jointly and severally. In addition, the firm was suspended from participation in underwriting activities for 30 business days and ordered to hire an independent consultant to audit the firm's compliance and written supervisory policies, procedures, and practices and to comply with the requirements in the consultant's

written report. Alton was suspended from association with any NASD member in any principal capacity for 30 days, and ordered to comply with the consultant's recommendations before acting again in any principal capacity. Alton must also requalify by examination before acting in any principal capacity.

The United States Court of Appeals for the Ninth Circuit affirmed the sanctions following the appeal of a January 1999 Securities and Exchange Commission (SEC) decision. The sanctions were based on findings that the firm, acting through Alton, conducted a securities business while maintaining insufficient net capital, filed false and inaccurate FOCUS Parts I and II Reports, and permitted an unregistered person to act as a representative and principal of the firm. Furthermore, the respondents participated in the underwriting of several "hot issues" without obtaining required information from the purchasers of the hot issues, and failed to complete a training needs analysis and to develop written training plans concerning the Firm Element of the Continuing Education Requirements. In addition, the firm, acting through Alton, failed to maintain written supervisory procedures relating to the customer complaint reporting requirement.

The firm's suspension began May 24, 1999, and concluded at the close of business on July 2, 1999. Alton's suspension began May 24, 1999, and concluded at the close of business on June 23, 1999. **(NASD Case #C01960003 and C01960024)**

Firm Fined, Individual Sanctioned

Quick & Reilly, Inc. (CRD #11217, New York, New York) and **Peter Quick (CRD #1157749, Registered Principal, Mill Neck, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Quick was fined \$7,500 and suspended from association with any NASD member in all principal capacities 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 permitted Quick to act in the capacity of a general securities principal without having passed an appropriate qualification examination and without having been registered as a general securities principal with the NASD.

Quick's suspension began August 21, 2000, and concluded at the close of business on September 1, 2000. **(NASD Case #C10000123)**

Firms And Individuals Fined

Buckman, Buckman & Reid, Inc. (CRD #23407, Red Bank, New Jersey), H. John Buckman (CRD #1090909, Registered Principal, Little Silver, New Jersey) and **Robert Martin Snyder (CRD #2619409, Registered Principal, Alt. Highlands, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$7,500. In addition, the firm and Buckman were censured and fined \$20,000, jointly and severally; the firm, Buckman, and Snyder were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through

Buckman, maintained written supervisory procedures that were materially deficient in several areas. The findings also stated that the firm, acting through Buckman, failed to implement the Firm Element of the NASD's Continuing Education Program, including a failure to develop a needs analysis and training program for the firm's covered registered persons. In addition, the NASD found that the firm failed to include the time of entry on order tickets and failed to indicate on the memoranda for Nasdaq® and non-Nasdaq security transactions the name of each dealer contacted and the quotations received to determine the best inter-dealer market.

The NASD also determined that the firm, acting through Buckman, acted as the sole underwriter in a private offering and distributed an offering memorandum that failed to disclose the date upon which the firm would cease offering shares to the public and failed to disclose that the customer funds would be returned if the firm failed to sell the minimum number of shares. Also, the NASD found that the firm failed to timely utilize the browse function in Automated Confirmation Transaction ServiceSM (ACTSM) to accept or decline transactions in Nasdaq securities within 20 minutes of execution. In addition, the firm, acting through Buckman, allowed Snyder, the firm's financial and operations principal, to function in the capacity of a general securities principal without being registered in that capacity. **(NASD Case #C06000014)**

Financial Northeastern Securities, Inc. (CRD #17007, Fairfield, New Jersey) and **Eric Michael Ratner (CRD #1286523, Registered Principal, Pinebrook, New Jersey)** submitted an Offer of Settlement in which they were censured and fined \$10,000, jointly and

severally, and required to disgorge \$45,000, jointly and severally, to the NASD. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Ratner, violated the terms of its restrictive agreement by engaging in unauthorized business activities. **(NASD Case #C9B000008)**

First Associated Securities Group, Inc. (CRD #20597, Chico, California) and **Carl Dominic Martellaro (CRD #320959, Registered Principal, Chico, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm and Martellaro were censured and fined \$12,500, jointly and severally. In light of the financial status of Martellaro, only a \$12,500 fine was imposed. The firm was fined an additional \$1,250, jointly and severally, with another individual. Without admitting or denying the allegations, the firm and Martellaro consented to the described sanctions and to the entry of findings that the firm, acting through Martellaro, conducted a securities business while in violation of the minimum net capital requirement and failed to maintain accurate books and records. The findings also stated that the firm, acting through Martellaro, failed to timely report arbitration settlement agreements and a court ruling regarding a firm member's mishandling of funds while serving as a conservator to the NASD. In addition, the NASD found that the firm, acting through an individual, failed to amend its written supervisory procedures concerning branch office inspections. **(NASD Case #C3A000027)**

Firms Fined

Archipelago, LLC (CRD #43705, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to the Order Audit Trail SystemSM (OATSSM) all order data for its electronic orders required to be recorded on certain trade dates. The findings also stated that the firm failed to transmit order data for electronic orders required to be recorded on trade dates to the receiving location specified by the NASD of the OATS production system. **(NASD Case #CMS000114)**

Banyan Securities, LLC (CRD #22395, Larkspur, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution. The findings also stated that the firm failed to transmit last sale reports of transactions in Nasdaq National Market[®] (NNM) securities through ACT within 90 seconds after execution and failed to designate such last sale reports as late to ACT. **(NASD Case #CMS000134)**

C.J.M. Planning Corporation (CRD #5698, Pompton Lakes, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, jointly and severally with two individuals, and required to disgorge \$3,175 representing its financial benefit from effecting municipal securities transactions

prior to paying an initial assessment to the MSRB. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to keep current its Form BD by failing to notify the NASD within 30 days of the changes in its business line. The findings also stated that the firm effected municipal securities transactions without having paid an initial fee to the MSRB. The NASD also found that the firm failed to maintain its minimum required net capital while conducting a securities business. **(NASD Case #C10000117)**

Deutsche Bank Securities, Inc. (CRD #2525, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to revise its written supervisory procedures within 60 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in eligible securities in ACT within 20 minutes after execution of these transactions. The findings also stated that the firm failed to immediately display customer limit orders when the orders were at a price that would have improved its bid or offer in each security related to those orders, or when the full size of the orders was priced equal to its bid or offer and the national best bid or offer and the orders represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each security. In addition, the NASD determined 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 trade reporting, ACT compliance, best

execution, limit order protection interpretation, locked and crossed markets, books and records, SEC order execution rules, and 21(a) report issues. **(NASD Case #CMS000104)**

ING Barings, LLC (CRD #6540, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,000, and required to provide the NASD with revised written supervisory procedures within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in Nasdaq securities in its public quotation when each order was at a price that would have improved its bid or offer in each security, or when the full size of each order was priced equal to its bid or offer and the national best bid or offer for each security, and represented more than a de minimis change in relation to the size associated with its bid or offer in each security. The findings also stated that the firm failed to provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning trade reporting, ACT compliance, best execution, limit order protection interpretation, books and records, SEC order execution rules, and short-sale rules. **(NASD Case #CMS000126)**

J. Alexander Securities, Inc. (CRD #7809, Los Angeles, California) 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 engaged in a pattern or prac-

tice of late transaction reporting to ACT without exceptional circumstances by failing to report transactions in ACT-eligible securities to ACT within 90 seconds after execution. The findings also stated that the firm failed to transmit last sale reports of transactions in OTC equity securities and NNM securities through ACT within 90 seconds after execution, and failed to designate each transaction as late to ACT. **(NASD Case #CMS000123)**

JB Oxford & Company (CRD #14343, Beverly Hills, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and ordered to pay customers \$10,416.19, plus interest, in restitution. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it violated its obligation to deal fairly with its customers by charging them excessive commissions in connection with the purchase and sale of options priced less than one dollar per contract. The firm charged its customers commissions ranging from 10 percent to 100 percent of the principal amount of the respective trades. **(NASD Case #C02000048)**

J. P. Turner & Company, LLC (CRD #43177, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to ensure that its designated director of compliance had taken and passed the general securities principal licensing examination in a timely fashion. The findings also stated that the firm failed to preserve required records relating to its involvement in a best efforts, con-

tingent private placement offering. **(NASD Case #C07000049)**

M.H. Meyerson and Company, Inc. (CRD #540, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$77,500 and required to revise its written supervisory procedures within 60 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct symbol to ACT indicating whether the firm executed transactions in a principal or agency capacity, the correct number of shares, and the correct unit price for transactions in eligible securities. The NASD found that the firm failed to accept or decline ACT transactions in eligible securities within 20 minutes after execution and failed to immediately display customer limit orders in Nasdaq securities in its public quotation when each order was at a price that would have improved the firm's bid or offer in each security, or when the order was equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a de minimis charge in relation to the size associated with the firm's bid or offer in each security. The findings also stated that the firm entered priced orders in Nasdaq securities into SelectNet®, which were deemed to be a bid or offer, without communicating to the NASD each priced order for at least the minimum quotation size that is required by the NASD if the price order was for the account of the firm or the actual size of each price order if it was for the account of a customer. Furthermore, the findings stated that the firm engaged in a pattern or practice of late transaction reporting without exceptional circumstances by failing to report ACT transactions in eligible securi-

ties within 90 seconds after execution, failed to transmit last sale reports through ACT, and failed to designate transactions as late. In addition, the NASD found that the firm failed to identify to ACT that last sale reports of transactions in NNM securities were aggregated transaction reports. The findings stated that the firm failed to execute a market order in a timely manner 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 establish, maintain, and enforce written procedures reasonably designed to achieve compliance with applicable securities laws and regulations. **(NASD Case #CMS000120)**

Ridgemont Securities, Inc. (CRD #15253, Roanoke, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$38,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in the sale of unregistered securities in connection with an offering to nonaccredited investors when the offering was required to be registered. The NASD found that the firm published and distributed sales literature in connection with the offering that lacked a balanced presentation of the risks of the security, contained unwarranted and misleading statements, omitted material facts, and included exaggerated statements and claims. The findings stated that the firm failed to prepare adequate written supervisory procedures covering the distribution of direct participation programs. The NASD also found that the firm failed to enforce customer suitability requirements on offerings and failed to document the suitability of the offerings for income-oriented investors. In addition, the findings

stated that the firm participated in an offering where units were distributed to public customers on terms different from those offered to other public customers and were not disclosed in offering documents. Moreover, the firm caused inaccurate and misleading telephone solicitations to be made to customers and failed to conduct due diligence in connection with offerings. **(NASD Case #C05000035)**

Sharpe Capital, Inc. (CRD #18452, 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, it failed to execute orders that were presented to the firm at its published bid or published offer in an amount up to its published quotation size. The findings also stated that the firm failed to provide a supervisory system reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS000125)**

Individuals Barred Or Suspended

Charles Michael Ameer (CRD #4093615, Registered Representative, Weston, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. The fine is due and payable prior to reassociation with a member firm following the suspension or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Ameer consented to the described sanctions and to the

entry of findings that he willfully failed to disclose that he had been charged with five misdemeanor counts alleging the issuance of bad checks, and felony counts alleging second degree larceny and conspiracy to commit larceny on his Form U-4. The findings also stated that Ameer failed to disclose that the criminal proceedings were still pending.

Ameer's suspension began August 21, 2000, and will conclude at the close of business on November 20, 2000. **(NASD Case #C11000015)**

Douglas Patten Avery (CRD #1191934, Registered Representative, Scottsdale, Arizona) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and required to demonstrate that \$263,575.27 in restitution, plus interest, has been paid to public customers prior to any application for relief from statutory disqualification. Without admitting or denying the allegations, Avery consented to the described sanctions and to the entry of findings that he was affiliated with business entities unrelated to his association with his member firm and participated in private securities transactions for compensation without providing prior written notice to, or receiving approval from, his member firm. The findings also stated that Avery failed to respond to NASD requests for information. **(NASD Case #C3A000013)**

Bryant Edward Banks (CRD #2090317, Registered Representative, Dunwoody, Georgia) was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and barred from association with any NASD member in any capacity. In addition, Banks was ordered to pay \$30,683.42, plus prejudgment inter-

est, in restitution, to public customers. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Banks recommended and implemented a course of trading in a public customer's account which included an undue concentration of assets in a historically unprofitable company, options, and margin trades. These investments were unsuitable for the customer given her financial condition, limited income, and short-term investment horizon. Banks also failed to respond to an NASD request for information.

Bank's suspension began August 21, 2000, and will conclude at the close of business on August 20, 2001. **(NASD Case #C07000002)**

Donny Menashe Bashkin (CRD #2239782, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity and ordered to pay \$5,209, plus interest, in restitution to public customers. The sanctions were based on findings that Bashkin effected unauthorized transactions in public customer accounts. **(NASD Case #C10990217)**

John Leonard Bauer (CRD #2412311, Registered Representative, Bronx, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Bauer had an impostor take the Series 7 exam on his behalf and failed to truthfully respond during an NASD on-the-record interview. **(NASD Case #C10990172)**

Stacy Brian Beaton (CRD #1759737, Registered Representative, Rapid City, South Dakota) was barred from association with any NASD member in any capacity.

The sanction was based on findings that Beaton failed to respond to NASD requests for information. **(NASD Case #C04000013)**

Michael S. Bellina (CRD #2571176, Registered Representative, Staten Island, New York) submitted an Offer of Settlement in which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Bellina consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Bellina's suspension will begin September 18, 2000, and will conclude on December 15, 2000. **(NASD Case #C9B990031)**

Gerard Bruzzese (CRD #2540877, Registered Representative, Brooklyn, New York) was suspended from association with any NASD member in any capacity for one year, ordered to pay \$24,440.80, plus interest, in restitution to public customers, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Bruzzese effected unauthorized securities transactions in the joint account of public customers and failed to respond to NASD requests to appear for an on-the-record interview.

Bruzzese's suspension began August 21, 2000, and will conclude at the close of business on August 21, 2001. **(NASD Case #C10000023)**

Jason Hamlet Carrillo (CRD #2232407, Registered Represent-

tative, Hoboken, New Jersey) was fined \$5,000, barred from association with any NASD member in any capacity, and ordered to pay \$52,778.42, plus interest, in restitution to public customers. The sanctions were based on findings that Carrillo executed transactions in the accounts of public customers without their knowledge or consent. The findings also stated that Carrillo failed to execute a customer's sell order and failed to appear for an NASD on-the-record interview. **(NASD Case #C10990188)**

Rowan Bernard Cecil (CRD #1573800, Registered Representative, Gulf Breeze, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$6,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Cecil consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without providing written notification to, and receiving approval from, his member firm.

Cecil's suspension began August 21, 2000, and will conclude at the close of business on September 20, 2000. **(NASD Case #C07000047)**

Lula Mae Clay (CRD #3133758, Associated Person, Teaneck, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Clay failed to disclose on a Form U-4 that she had a criminal record. **(NASD Case #C9B000004)**

Brian Michael D'Alfonso (CRD #2595839, Registered Representative, Philadelphia, Pennsylva-

nia) was barred from association with any NASD member in any capacity. The sanction was based on findings that D'Alfonso failed to respond completely to NASD requests for information. **(NASD Case #C9A000001)**

Nathaniel Duane Dean (CRD #2720407, Registered Representative, Westbury, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,500 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dean consented to the described sanctions and to the entry of findings that he instructed a public customer to wire \$500 to his personal bank account. The customer was led to believe that the account was a money market account managed by a member firm and designated for his investing benefit. The NASD found that by instructing the customer to wire the funds into his personal bank account, Dean converted the customer's funds for his own use. **(NASD Case #C10000124)**

Anthony Tom DeLuca (CRD #1695935, Registered Representative, Syosset, 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, DeLuca consented to the described sanction and to the entry of findings that he misrepresented that customers' existing life insurance policies would be replaced with new variable life insurance policies when, in fact, the old policies were never canceled and the customers were left with two policies on which they had to make premium payments. The findings also stated that DeLuca sold variable life insurance to a cus-

tomers for whom the purchase was not suitable. In addition, the NASD found that DeLuca made representations that variable life insurance was an investment but failed to disclose that it was life insurance and the costs associated with the life insurance portion of the product. **(NASD Case #CAF000036)**

Adolphus Cleveland DuBose, Jr. (CRD #72451, Registered Representative, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 60 days, barred from association with any NASD member in the capacity of a financial and operations principal, and required to requalify as a general securities principal before acting again in that capacity. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, DuBose consented to the described sanctions and to the entry of findings that a member firm, acting through DuBose, effected transactions in securities when it failed to maintain the minimum net capital required by SEC Rule 15c3-1.

DuBose's suspension began August 21, 2000, and will conclude at the close of business on October 19, 2000. **(NASD Case #C8B000009)**

James Adolph Feyerabend, Jr. (CRD #2878879, Registered Representative, Middletown, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent (AWC) in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, and ordered to requalify as a general securities representative within 90 business days from the date the

AWC was issued. If Feyerabend fails to requalify within the mandated period, he will be suspended from acting in such capacity until he successfully completes the Series 7 exam. Without admitting or denying the allegations, Feyerabend consented to the described sanctions and to the entry of findings that he purchased shares of a security for the account of public customers without their prior knowledge or consent.

Feyerabend's suspension began August 21, 2000, and concluded at the close of business on September 1, 2000. **(NASD Case #C10000126)**

Len Kenneth Furman (CRD #1964317, Registered Principal, Bradenton, Florida) was barred from association with any NASD member in any capacity and ordered to pay \$12,561.36, plus interest, in restitution to customers. The sanctions were based on findings that Furman failed to disclose to the customers who purchased promissory notes that the issuer would pay sales commissions of up to 11 percent to a company that Furman owned. Furman also participated in private securities transactions without giving prior written notice to, or receiving written approval from, his member firm and signed false and misleading affidavits for use in an NASD arbitration proceeding. **(NASD Case #C07990033)**

Pat Lee Gilliland (CRD #221888, Registered Representative, Jackson, Mississippi) 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 15 business days. Without admitting or denying the allegations, Gilliland consented to the described sanctions and to the

entry of findings that he engaged in outside business activities without providing prior written notice to his member firm.

Gilliland's suspension began August 21, 2000, and concluded at the close of business on September 11, 2000. **(NASD Case #C05000033)**

Richard Scott Ginsberg (CRD #1516467, Registered Representative, Ft. Lauderdale, Florida) submitted an Offer of Settlement in which he was fined \$50,000, suspended from association with any NASD member in any capacity for 18 months, and required to pay \$266,650, plus interest, in restitution to customers. The fine and restitution must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Ginsberg consented to the described sanctions and to the entry of findings that he defrauded customers by recklessly making misstatements and omissions of material fact and baseless price predictions.

Ginsberg's suspension began August 21, 2000, and will conclude at the close of business on February 20, 2002. **(NASD Case #C04000002)**

Charles Douglas Gulley, Jr. (CRD #1320916, Registered Representative, Ocean Springs, Mississippi) was fined \$25,000, suspended from association with any NASD member in any capacity for two years, and barred from association with any NASD member in any capacity. The fine is due and payable prior to reassociation with a member firm following the suspension and bar. The sanctions were based on findings that Gulley converted to his own use \$1,465,134.62 received from public customers for investment, and con-

verted to his own use \$5,000 received from a customer for payment of insurance premiums. The findings also stated that Gulley failed to respond in a complete and timely manner to NASD requests for information.

Gulley's suspension began August 21, 2000, and will conclude at the close of business on August 20, 2002. **(NASD Case #C05990034)**

Leon Hickenbottom (CRD #2362097, Registered Representative, Rosedale, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$32,392 and barred from association with any NASD member in any capacity. The fine, plus interest, is due and payable prior to reassociation with a member firm. Without admitting or denying the allegations, Hickenbottom consented to the described sanctions and to the entry of findings that he improperly negotiated refund checks totaling \$1,368.44 made payable to public customers of his member firm and deposited the checks into his personal account. The findings also stated that Hickenbottom misappropriated a \$110 premium payment and improperly deposited it for the benefit of a third party in order to repay a deficiency Hickenbottom had previously created in that customer's account. **(NASD Case #C10000137)**

Anthony Robert Iannucci (CRD #2095144, Registered Representative, Hartsdale, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Iannucci failed to respond to questions during an NASD on-the-record interview. **(NASD Case #C10000018)**

Christopher Brian Jones (CRD #2867623, Registered Representative, St. Louis, Missouri) sub-

mitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 10 business days. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Jones consented to the described sanction and to the entry of findings that he affixed a public customer's signature to a variable life insurance application supplement without the customer's knowledge or consent.

Jones' suspension began August 21, 2000, and concluded at the close of business on September 1, 2000. **(NASD Case #C04000027)**

David William Justini (CRD #2556885, Registered Representative, Oradell, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 days and required to requalify as a general securities principal before acting in that capacity. Without admitting or denying the allegations, Justini consented to the described sanctions and to the entry of findings that he possessed note cards containing information pertaining to the Series 24 qualification exam while taking the exam.

Justini's suspension began July 24, 2000, and concluded at the close of business on August 22, 2000. **(NASD Case #C10000127)**

Karl Francis Larsen (CRD #3115059, Registered Representative, Chula Vista, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allega-

tions, Larsen consented to the described sanctions and to the entry of findings that he submitted a Form U-4 to his member firm and falsely responded "no" to a question asking him whether he had ever been charged with any felony.

Larsen's suspension began August 21, 2000, and will conclude at the close of business on August 20, 2001. **(NASD Case #C02000046)**

John Van Lau (CRD #2378213, Registered Representative, Mission Viejo, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Lau failed to respond to NASD requests for information. **(NASD Case #C02990069)**

Antony Richard Lonsdale (CRD #1765254, Registered Representative, Santa Barbara, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Lonsdale consented to the described sanction and to the entry of findings that he submitted a Form U-4 to his member firm that failed to disclose that he was charged with, and pleaded nolo contendere to, two felonies. The findings also stated that Lonsdale failed to update his Form U-4.

Lonsdale's suspension began August 21, 2000, and will conclude at the close of business on August 20, 2001. **(NASD Case #C02000047)**

Roy Isao Matsumoto (CRD #717080, Registered Representative, Kapolei, Hawaii) was barred from association with any NASD member in any capacity. The sanction was based on findings that Matsumoto failed to respond to

NASD requests for information. **(NASD Case #C01990023)**

Edward Paul McCauley (CRD #2280148, Registered Representative, Bronx, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for 10 business days, and ordered to pay restitution of \$897.63 to a public customer. McCauley must provide satisfactory proof of payment of the restitution to the NASD no later than 60 days after acceptance of this AWC. Without admitting or denying the allegations, McCauley consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without their knowledge or authorization.

McCauley's suspension began August 21, 2000, and concluded at the close of business on September 1, 2000. **(NASD Case #C10000134)**

Michael Allan Michelson (CRD #2254190, Registered Representative, Chicago, Illinois) was fined \$15,000 and barred from association with any NASD member in any capacity. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Michelson engaged in unauthorized trading in the accounts of public customers and guaranteed a customer against loss. Michelson also failed to respond to an NASD request for information and conducted securities transactions while failing to be registered in the appropriate capacity. **(NASD Case #C8A990074)**

Douglas Edward O'Connor (CRD #2276235, Registered Representative, Stewart Manor, 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, O'Connor consented to the described sanctions and to the entry of findings that he misrepresented his identity to a member firm by posing as a public customer in order to obtain a checkbook for the customer in connection with the customer's account at the firm. The findings also stated that O'Connor forged another customer's signature on a letter in connection with the customer's request for a redemption of securities. In addition, the NASD found that O'Connor willfully failed to disclose material information on a Form U-4 submitted to the NASD regarding his termination from a member firm, a felony charge, and guilty plea. **(NASD Case #C10000133)**

Deborah Oprean (CRD #2143425, Registered Representative, Amherst, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Oprean failed to respond to NASD requests for information. **(NASD Case #C8B000005)**

Joseph Martin Orlando (CRD #1750825, Registered Representative, Dover, Delaware) was barred from association with any NASD member in any capacity. The sanction was based on findings that Orlando submitted a false Form U-4 in connection with his employment at a member firm. Orlando also failed to respond to NASD requests to appear for on-the-record interviews. **(NASD Case #C9A990060)**

Hal Pasetsky (CRD #2533743, Registered Representative, Southampton, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from asso-

ciation with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Pasetsky consented to the described sanctions and to the entry of findings that in connection with securities transactions, Paset-sky attempted to improperly influ-ence another member or person associated with a member.

Pasetsky's suspension began August 21, 2000, and concluded at the close of business on August 25, 2000. **(NASD Case #CMS000115)**

David George Rhodes (CRD #871317, Registered Representative, Pewaukee, Wisconsin) sub-mitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$9,250 and suspended from association with any NASD member in any capacity for three months. Without admitting or deny-ing the allegations, Rhodes con-sented to the described sanctions and to the entry of findings that he engaged in private securities trans-actions and outside business activi-ties, and failed to give written notice to, and receive written approval from, his member firm of his inten-tion to engage in such activities.

Rhodes' suspension began August 7, 2000, and will conclude at the close of business on November 6, 2000. **(NASD Case #C8A000040)**

Marcus Eugene Rivers (CRD #1170703, Registered Represen-tative, Mobile, Alabama) was barred from association with any NASD member in any capacity. The sanction was based on findings that Rivers received checks totaling \$93,764.85 from a public customer for investment purposes, invested \$35,000 in an IRA for the customer, and converted the remaining \$58,764.85 for his own use and benefit. The findings also stated that Rivers failed to respond to

NASD requests for information. **(NASD Case #C05990054)**

Brooks David Robinson (CRD #1300829, Registered Represen-tative, Baltimore, Maryland) sub-mitted 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 14 days. Without admitting or denying the allegations, Robinson consent-ed to the described sanctions and to the entry of findings that he exer-cised effective control over the account of a public customer and recommended numerous purchas-es and sales of securities without having reasonable grounds for believing that such transactions were suitable for the customer based upon the size and frequency of the transactions and the nature of the account.

Robinson's suspension is deemed to have been served based upon a 14-day suspension imposed by a member firm. **(NASD Case #C9A000025)**

Gabriel Dominick Rodelo (CRD #3065086, Registered Represen-tative, Ontario, California) submit-ted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from associ-ation with any NASD member in any capacity for 30 days. The fine must be paid before any application for reentry into the securities indus-try will be considered. Without admitting or denying the allega-tions, Rodelo consented to the described sanctions and to the entry of findings that he completed a Form U-4 for a member firm and failed to disclose that he had been charged with and pled guilty to a misdemeanor.

Rodelo's suspension began September 11, 2000, and will con-

clude at the close of business on October 10, 2000. **(NASD Case #C02000017)**

Michael Anthony Scaramellino (CRD #2497751, Registered Rep-resentative, Boca Raton, Florida) submitted an Offer of Settlement in which he was barred from associa-tion with any NASD member in any capacity. Without admitting or deny-ing the allegations, Scaramellino consented to the described sanc-tion and to the entry of findings that he made intentional or reckless material misrepresentations to pub-lic customers to induce them to pur-chase shares of stock. The findings also stated that Scaramellino effect-ed an unauthorized purchase of stock in the account of a public cus-tomer. **(NASD Case #C07000024)**

Gary Eben Seerden (CRD #1044886, Registered Represen-tative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Seerden failed to respond to NASD requests for information. **(NASD Case #C9B990041)**

William Larry Sherman (CRD #2444656, Registered Represen-tative, Laurel, Mississippi) sub-mitted 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 the respon-dent, no monetary sanction has been imposed. Without admitting or denying the allegations, Sherman consented to the described sanc-tion and to the entry of findings that he engaged in private securities transactions without providing prior written notice to his member firm.

Sherman's suspension began August 21, 2000, and will conclude at the close of business on August

20, 2002. **(NASD Case #C05000031)**

John Storey, Jr. (CRD #2504455, Registered Representative, Wheatley Heights, New York) was barred from association with any NASD member in any capacity and ordered to pay \$84,751.25, plus interest, in restitution to public customers. The sanctions were based on findings that Storey knowingly or recklessly made a specific price prediction to a public customer about a security, without an adequate, accurate, or reasonable basis for the prediction. The findings also stated that Storey refused and failed to execute unsolicited sale orders from public customers in order to maintain the price of two house securities, and executed unauthorized trades in the accounts of public customers without discretionary trading authority. **(NASD Case #CAF990024)**

Cynthia Chattin Thompson (CRD #1561754, Registered Representative, Sugar Land, Texas) submitted an Offer of Settlement in which she was fined \$35,000 and suspended from association with any NASD member in any capacity for one year. The fine is due and payable prior to reassociation with a member firm following the suspension. Without admitting or denying the allegations, Thompson consented to the described sanctions and to the entry of findings that she failed to establish trust or escrow accounts for private placement offerings of common stock. The NASD also found that Thompson failed to return investor funds when the minimum sales contingency was not met by the stated date and additional investments were accepted after the stated date for return of funds to investors. The findings stated that Thompson effected securities transactions for

the accounts of others when she was not registered as a securities broker. Furthermore, the NASD found that Thompson received funds from public customers for the purchase of securities, deposited the funds into a bank account she controlled and into which other funds were also deposited, and used some of the funds in the operation of her business. In addition, Thompson engaged in outside securities transactions for compensation without providing prior written notice to, and receiving written permission from, her member firm.

Thompson's suspension began August 21, 2000, and will conclude at the close of business on August 20, 2001. **(NASD Case #C3A990067)**

Steve Faramarz Varasteh (CRD #1985952, Registered Representative, Scottsdale, Arizona) was barred from association with any NASD member in any capacity. The sanction was based on findings that Varasteh executed transactions in the trust account of public customers without obtaining their authorization. The findings also stated that Varasteh guaranteed the customers against loss in the trust account and issued personal checks totaling \$19,100 for losses incurred. In addition, the NASD found that Varasteh failed to respond to NASD requests for information. **(NASD Case #C3A000001)**

Brian Alexander Vasiljevich (CRD #1949834, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Vasiljevich participated in private securities transactions without providing prior written notice to his member firm. **(NASD Case #C3B000002)**

Jason Full Wang (CRD #2103430, Registered Principal, E. Norwich, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Wang failed to respond to NASD requests to appear for on-the-record interviews. **(NASD Case #C10990144)**

Curtis LeRoy Whipple (CRD #1657643, Registered Principal, Canton, Michigan) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Whipple consented to the described sanctions and to the entry of findings that he accepted compensation from an entity concerning the sale of interests in public pay telephone sale lease-back contracts to public customers and failed to provide prompt, written notice to his member firm of his outside business activities. The findings also stated that Whipple entered into written settlement agreements with public customers using a member firm's letterhead, without the firm's knowledge or consent.

Whipple's suspension began July 24, 2000, and concluded at the close of business on August 4, 2000. **(NASD Case #C8A000026)**

Individual Fined

Steve John Rogan (CRD #824673, Registered Principal, Pagosa Springs, Colorado) was censured and fined \$10,216. The sanctions were based on findings that Rogan engaged in outside business activity for compensation without giving prompt written notice to his member firm. **(NASD Case #C3A000010)**

Decisions Issued

The following decisions have been issued by the District Business Conduct Committee or the OHO and have been appealed to or called for review by the NAC as of August 7, 2000. The findings and sanctions imposed in the decisions may be increased, decreased, modified, or reversed by the NAC. Initial decisions for which time for appeal has not yet expired will be reported in the next *Notices to Members*.

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 90 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 45 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 30 days, and required to requalify by exam as an investment company and variable contracts product representative. 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.

This action was called for review by the NAC and the sanctions are not in effect pending consideration of

the review. **(NASD Case #C8A990025, C8A990026 and C8A990027)**

Shailesh Babubhai Patel (CRD #2610523, Registered Principal, Huntington Beach, California) was barred from association with any NASD member in any capacity. 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 make any other investment on their behalf.

Patel has appealed this case to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C02990052)**

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 adjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Mark Christopher Chang (CRD #2648704, Registered Representative, Miami, Florida) was named as a respondent in an NASD complaint alleging that he altered checks totaling \$36,416.32 and made them payable to himself without authorization from his member firm or public customers. The complaint further alleges that Chang endorsed and cashed \$26,416.32 of the customers' funds and converted it to his own use and benefit. In addition, the complaint alleges

that Chang failed to respond to an NASD request for information. **(NASD Case #C07000046)**

Silvio John DiMedio (CRD #1109634, Registered Principal, Maple Shade, New Jersey) was named as a respondent in an NASD complaint alleging that he effected the sale of stocks from the securities accounts of public customers without their prior authorization or consent. **(NASD Case #C9A000029)**

Kevin Arthur Hoag (CRD #1908521, Registered Principal, San Francisco) was named as a respondent in an NASD complaint alleging that he effected transactions in customer accounts without the prior knowledge and consent of the customers. **(NASD Case #C01000013)**

Robert Mosby (CRD #861055, Registered Principal, Richmond, Virginia) was named as a respondent in an NASD complaint alleging that he recommended to a public customer the purchase of securities that were not suitable given the customer's objectives and financial situation. **(NASD Case #C07000050)**

Vincent Joseph Puma (CRD #2358356, Registered Principal, Freehold, New Jersey) was named as a respondent in an NASD complaint alleging that he effected 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 the accounts. **(NASD Case #C10000122)**

Julian Gaspar Russo (CRD #407793, Registered Representative, East Islip, New York) was named as a respondent in an NASD complaint alleging that he

received \$13,000 from public customers for investment purposes, failed to invest the funds as directed, and, without the knowledge or consent of the customers, converted the funds to his own use and benefit. The complaint also alleges that Russo failed to respond to NASD requests for information. **(NASD Case #C05000036)**

Francesco Anthony Scarso (CRD #2679981, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized trading in the accounts of public customers. **(NASD Case #C10000135)**

Roland Silas (CRD #1047209, Registered Representative, San Bruno, California) was named as a respondent in an NASD complaint alleging that he received a cashier's check for \$30,000 from public customers intended for investment in a mutual fund. The NASD alleges that Silas failed to execute the purchase on the customers' behalf, and instead, converted the funds to his own use and benefit by purchasing shares of the fund in his personal account without the customers' knowledge or consent. The complaint further alleges that Silas failed to respond to NASD requests for information. **(NASD Case #C02000041)**

Firms Suspended

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.

American Investment Bankers, Inc., San Diego, California (August 8, 2000)

Intra Network Securities, Inc., Rancho Santa Fe, California (August 8, 2000)

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

The date the revocation commenced is listed after the entry. If the individual has paid the fine and/or costs, the listing also includes the date the revocation was rescinded.

Angeline, Ralph J., Katonah, New York (July 27, 2000)

Bekhor, Jonathan, Beverly Hills, California (July 27, 2000)

Cobb, Edward P., Glen Rock, New Jersey (July 21, 2000)

Daskalis, John C., Bayside, New York (July 21, 2000 - August 1, 2000)

Garceau, Jr., Paul J., Clinton Township, Michigan (July 27, 2000)

Gottfried, Jonathan D., New York, New York (July 21, 2000)

Lassak, Albert D., West Palm Beach, Florida (July 21, 2000)

Vainshtok, Mikhail, Brooklyn, New York (July 21, 2000)

Seven Brokerage Firms Settle NASD Regulation Charges Of Yield Burning

NASD Regulation, Inc., announced that as a result of a coordinated investigation with the United States Attorney for the Southern District of New York and the Internal Revenue Service, it has censured seven brokerage firms for engaging in the practice of yield burning. In settling the charges, the seven firms named in these actions, Butler Wick & Co., Inc.; Cain Brothers & Company, LLC; First Chicago Capital Markets, Inc.; John Nuveen & Co., Inc.; Peacock, Hislop, Staley & Given, Inc.; SHP Capital Markets, Inc.; and Scott & Stringfellow, Inc., neither admitted nor denied NASD Regulation's findings.

NASD Regulation ordered total payments of \$13.5 million as follows:

- Butler Wick & Co., Inc.; First Chicago Capital Markets, Inc.; John Nuveen & Co., Incorporated; Peacock, Hislop, Staley & Given, Inc.; and Scott & Stringfellow, Inc. to pay a total of approximately \$7,495,000 to the U.S. Treasury.
- First Chicago Capital Markets, Inc.; John Nuveen & Co., Incorporated; and Peacock, Hislop, Staley & Given, Inc. to make payments totaling approximately \$4,200,000 directly to 22 municipal issuers.
- Cain Brothers & Company, LLC and SHP Capital Markets, Inc. to reimburse other brokerage firms in the amount of approximately \$1,180,000 for payments previously made to the U.S. Government on behalf of those firms.
- The seven firms will pay a total of \$640,500 to NASD Regulation.

NASD Regulation found that each firm had violated the rule that requires members to observe high standards of commercial honor, as well as federal securities laws, by selling U.S. Treasury securities to municipalities at prices not reasonably related to the current wholesale market prices for those securities and that the excessive markups jeopardized the tax-exempt status of those municipalities' refunding bonds and diverted money from the U.S. Treasury to the firms in certain transactions and reduced the savings available to the municipalities from the refundings in other transactions.

In a falling interest rate environment, state and local governments often seek to reduce borrowing costs by paying off outstanding bonds through the issuance of new bonds at lower interest rates. When the old bonds cannot be paid off until a future call date, the municipality can still take advantage of lower interest rates through an "advance refunding." In an advance refunding, the proceeds of the bond issuance are invested in U.S. Treasury securities, which are placed in an escrow account to pay the principal and interest obligations on the old bonds. Brokerage firms sell U.S. Treasury securities to municipalities for these escrow accounts. To prevent abuse of the benefit the federal government gives municipal issuers by not taxing interest on their bonds, federal law limits the yield an issuer can earn on Treasury securities bought for advance refundings. The practice known as "yield burning" occurs when a brokerage firm charges excessive markups on the sale of U.S. Treasury securities to municipalities for refundings to reduce the yield on those securities so they do not violate the yield restrictions. If yield burning occurs, holders of the new refunding bonds can be required to

pay federal income tax on the bond interest they receive.

NASD Regulation's New Orleans District Office conducted the examinations that led up to the filing of these disciplinary actions. Earlier this year, NASD Regulation settled yield burning charges with seven other firms whereby they paid \$21.4 million to the U.S. Treasury and disgorgement to 38 municipal issuers.

NAC Sanctions Former Monroe Parker Director Of Trading And Director Of Compliance

NASD Regulation announced that the NAC affirmed the findings of an NASD Regulation Hearing Panel decision, holding Ralph Angeline, former Director of Trading at Monroe Parker Securities, liable for his participation in the manipulation and excessive markups of Steve Madden Ltd. Class A warrants in 1995. The NAC also affirmed the Hearing Panel's determination that Richard Steven Levitov, Monroe Parker's former Director of Compliance, failed to exercise proper supervision. In its decision, the NAC upheld the Hearing Panel's decision that Angeline either knew of or was reckless in failing to discover Monroe Parker's "carefully planned manipulation," and that Levitov failed to supervise by not investigating the clear evidence of market manipulation and excessive markups of Steve Madden warrants.

The NAC also affirmed in part and modified in part the sanctions that the Hearing Panel imposed. The NAC affirmed the Hearing Panel's decision to bar Angeline in all capacities and to fine him \$600,000. The NAC modified the Hearing Panel's sanctions by reducing the disgorgement amount for which Angeline was responsible, from \$3,156,930 (jointly and sever-

ally with other defendants who did not appeal) to \$203,000. This amount represented Angeline's salary and bonus for 1995, the year in which the manipulation took place.

The NAC affirmed the Hearing Panel's decision to bar Levitov in all principal capacities, to suspend him for one year, to fine him \$5,000, and to require him to retake and pass the Series 7 exam before re-entering the industry. The NAC changed the Hearing Panel's retroactive start date for Levitov's suspension from December 31, 1997, to the date on which the NAC issued its decision.

The original complaint against Monroe Parker was filed on December 23, 1997. The complaint alleged that in late 1994 and early 1995, Monroe Parker acquired approximately 94 percent of the Steve Madden Class A warrants that were available for public trading. The NASD determined that after Monroe Parker had acquired a dominant position in the warrants, Monroe Parker manipulated the price of the warrants and sold its entire inventory to customers at prices reflecting fraudulently excessive markups. Monroe Parker made more than \$3 million in profits through its fraudulent scheme. As soon as it made the profits, Monroe Parker no longer had an interest in artificially supporting the price of the warrants, reduced its bid, and customers lost millions of dollars.

NASD Regulation Fines WMA Securities, Inc. \$125,000 For Failure To Report Customer Complaints

NASD Regulation announced that it has fined WMA Securities, Inc., based in Duluth, Georgia, \$125,000 for failing to report nearly 900 customer complaints.

These complaints represented approximately 75 percent of the firm's customer complaints for a 3.5 year time frame through March of 1999. A number of these complaints alleged misrepresentations and omissions in connection with the firm's sale of variable life insurance. Approximately 135 were serious enough to require an amendment to information about the firm's brokers as contained in the Central Registration Depository (CRDSM), the registration and licensing database maintained by NASD Regulation and disclosed to the public through its Public Disclosure Program.

Customer complaints provide the NASD with important information that often times assists with the identification of problem firms, branch offices, and registered representatives. Failure of a firm to abide by the customer complaint reporting rule impedes NASD Regulation's ability to detect and investigate potential sales practice violations and police its 5,500 member firms and over 625,000 registered representatives.

In settling this matter, WMA neither admitted nor denied NASD Regulation's findings. As part of its settlement with NASD Regulation, WMA agreed to retain an outside consultant to perform periodic reviews of its compliance with the provision requiring the reporting of customer complaints to the Association.

NASD Regulation Expels R.D. White & Co., Inc., Sanctions Principals For Fraud And Recovers \$400,000 in Restitution for Investors

NASD Regulation announced that it has expelled R.D. White & Co., Inc., of New York, NY, from NASD membership; barred both Louis J. Pagano, Chief Executive Officer, and John R. Piscopo, President, from associating with any NASD member as principals for five years; and suspended them from associating with any NASD member, in any capacity, for two years, for fraud and other securities violations, in connection with purchases and sales of two securities. R.D. White, in settling the charges originally filed in April 1999, has agreed to pay over \$400,000 in restitution to over 200 R.D. White customers, in 29 states. The firm, Pagano and Piscopo have been fined \$100,000, \$50,000, and \$100,000 respectively.

NASD Regulation found that R.D. White, after acting as the managing underwriter of the initial public offerings of Genisys Reservation Systems, Inc. and Capital Beverage Corp, on March 20, 1997 and July 17, 1997, respectively, dominated and controlled the trading in the securities. On the first day of trading, when R.D. White purchased the securities from its customers in 142 separate transactions, it fraudulently underpaid them by not giving them a fair price reasonably related to the prevailing market price for those securities.

The Capital Beverage IPO also registered for sale securities owned by 26 individuals who had previously provided financing to the company. A total of 325,000 shares of common stock and 650,000 warrants were sold by these individuals to the firm within the first three minutes of trading. These securities

were then redistributed to the public in solicited transactions throughout the remainder of the day. The firm's brokers received several times their normal compensation for selling this large block of securities. NASD Regulation found that, while engaged in this activity, the firm, Pagano, and Piscopo violated the anti-fraud and distribution provisions of the federal securities laws and NASD rules. These anti-manipulative provisions prohibit a firm from artificially conditioning the aftermarket for a security by bidding for or purchasing securities while it is engaged in a distribution of those securities. Additionally, NASD Regulation found that R.D. White received over \$1 million in excessive underwriting compensation and failed to submit, for approval by NASD Regulation, as required, the maximum proposed underwriting compensation.

The firm, along with Pagano and Piscopo, were also found to have failed to establish, maintain, and enforce adequate written supervisory procedures designed to prevent the alleged misconduct. As part of this settlement, the firm, Pagano and Piscopo neither admitted nor denied the allegations.

This matter was investigated by NASD Regulation's Enforcement Department with assistance from the Corporate Financing Department. NASD Regulation did not allege any wrongdoing on the part of the issuers.

NAC Finds Traders Aided And Abetted In Market Manipulation

The NAC concluded that Howard R. Perles, a trader at IAR Securities Corp. (formerly known as I. A. Rabinowitz & Co.), and Laurence M. Geller, a trader at Wien Securities Corp., aided and abetted VTR Capital Inc. in the fraudulent manipulation of a Nasdaq-listed common stock. Perles was suspended for one year, fined \$25,000, and required to requalify as a general securities representative. The NAC suspended Geller for 30 business days, imposed a \$25,000 fine, and required him to requalify as a general securities representative.

Following an independent review, the NAC reversed the prior Hearing Panel's dismissal of the allegations that Perles and Geller aided and abetted a manipulation. The NAC found that Perles and Geller had indeed aided and abetted VTR's manipulation of the volume of trading in Interiors, Inc., common stock when Perles and Geller engaged in prearranged, matched trading with VTR, in separate instances, over the course of three days. The trading records and the inferences resulting from Perles' and Geller's trades proved by a preponderance of the evidence that they engaged in prearranged, matched trading when they:

- traded Interiors in large volume back and forth with VTR, when Interiors stock had recently been thinly traded;
- accumulated large short positions that were economically irrational given the large risk and razor-thin profits that they were making; and,
- traded Interiors stock with VTR in a symmetrical pattern. (VTR

and its President, Edward McCune, settled the allegations against them prior to their hearing and were not involved in the appeal of this case to the NAC.)

In reversing the Hearing Panel's dismissal of the allegations that Perles and Geller had aided and abetted a manipulation, however, the NAC found that aiding and abetting a manipulation violated NASD rules that prohibit fraud and require adherence to "high standards of commercial honor and just and equitable principles of trade." The NAC explained that the United States Supreme Court's decision in *Central Bank of Denver v. First Interstate Bank of Denver*, 511 U.S. 164 (1994), did not apply because that case held only that in a civil action a private plaintiff may not maintain an aiding and abetting lawsuit under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.

Noting that the NASD's antifraud rule and its just and equitable principles of trade rule were adopted against the backdrop of the Exchange Act, which requires the SEC to determine that the NASD "has rules that are designed to prevent fraudulent and manipulative acts and practices," the NAC explained that the NASD's rules do prohibit traders from aiding and abetting a manipulation of a stock's volume. The NAC wrote that "Perles and Geller rejected commercial honor and engaged in an unjust and inequitable scheme."

The NAC upheld the Hearing Panel's dismissal of the allegation that Perles and Geller aided and abetted VTR in an unregistered distribution of Interiors stock. The NAC concluded that the NASD Regulation Department of Enforcement had not proved that Perles and

Geller were aware that VTR was engaged in an unregistered distribution.

Perles and Geller may appeal the NAC's decision to the SEC within 30 days of the date of the decision.

NASD Regulation Censures And Fines E*TRADE Securities, Inc. For Failing To Submit Short Interest Reports To NASD Regulation For 28 Months

NASD Regulation announced a settlement in which it censured and fined E*TRADE Securities, Inc. \$20,000 for failing to report its short interest positions for a 28-month period. Additionally, NASD Regulation found that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to ensure compliance with the short interest reporting rule.

NASD rules require each member firm to maintain a record of total "short" positions in all customer and proprietary firm accounts in securities listed on The Nasdaq Stock Market® and report the information monthly to NASD Regulation's Market Regulation Department. 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. These figures are reviewed by NASD Regulation and, on an issue-by-issue basis, released for dissemination to the public.

Without admitting or denying NASD Regulation's findings, E*TRADE settled the NASD's action which found that the firm failed to report its short interest positions to NASD Regulation, Inc. for the months of June 1996 through September 1998. Additionally, NASD Regula-

tion found that the firm, during the same time period, failed to establish, maintain and enforce written supervisory procedures reasonably designed to achieve compliance with NASD Rule 3360 concerning short interest reporting. The failure to report its short interest positions to NASD Regulation caused inaccurate market data to be disseminated to the investing public.

This action was brought by NASD Regulation's Market Regulation Department.

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