

Disciplinary Actions

Disciplinary Actions Reported For August

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of July 24, 2000.

Firm Expelled, Individuals Sanctioned

R.D. White & Co., Inc. (CRD #7011, New York, New York), Louis Joseph Pagano (CRD #355121, Registered Principal, Staten Island, New York), and John Robert Piscopo (CRD #1288437, Registered Principal, Staten Island, New York) submitted an Offer of Settlement in which the firm was expelled from NASD membership, fined \$100,000, and ordered to pay \$400,129.92 in restitution to public customers. Pagano and Piscopo were each suspended from association with any NASD member in any capacity for two years and barred from association with any NASD member as Series 24 principals with the right to reapply after five years. In addition, Pagano was fined \$50,000 and Piscopo was fined \$100,000.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Pagano and Piscopo, dominated and controlled the markets for securities such that there was no independent competitive market for those securities. The NASD found that, as a result, the firm, acting through Pagano and Piscopo, failed to determine mark-

downs on the basis of the firm's contemporaneous sales prices to other broker/dealers for markets that it dominated and controlled and, instead, charged retail customers markdowns in excess of the firm's contemporaneous sales prices. In addition, the NASD found that the firm, acting through Pagano and Piscopo, failed to disclose to public customers that the prices at which the firm was engaging in these transactions were not reasonably related to the prevailing market price of these securities. The findings stated that the firm, acting through Pagano and Piscopo, induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances; made untrue statements of material fact; omitted material facts necessary to make the statements not misleading; or engaged in acts which operated as a fraud upon persons.

The NASD also found that the firm, acting through Pagano and Piscopo, engaged in special selling efforts and methods to further the distribution of securities including paying its registered representatives gross sales credits that were higher than those the representatives received for selling all other securities. Moreover, the respondents, while acting as a distribution participant, bid for, purchased, or attempted to induce persons to bid for or purchase a security that was the subject of a distribution during its participation in the distribution. In addition, the firm, acting through Pagano, in a public offering without documents or information having been filed and reviewed by the NASD, commenced an offering prior to the NASD providing an opinion, failed to disclose all items of underwriting compensation, and received approximately \$1,628,885.88 in undisclosed underwriter's compensation. Fur-

thermore, the respondents failed to establish and maintain written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules.

Pagano's and Piscopo's suspensions will begin August 21, 2000, and will conclude at the close of business on August 20, 2002. (NASD Case #CAF990007)

Firm Fined, Individuals Sanctioned

First Union Securities, Inc. (CRD #19616, Charlotte, North Carolina), James Fellin Losty (CRD #1450619, Registered Representative, Radnor, Pennsylvania) and Mark Mintford Gambill (CRD #217179, Registered Principal, Richmond, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$350,000; Losty was fined \$50,000 and suspended from association with any NASD member in any capacity for 30 days; and Gambill was fined \$25,000 and suspended from association with any NASD member in a supervisory capacity for 15 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 Losty, caused its books and records to fail to reflect accurately finder's fee payments to another member firm for municipal securities transactions. The NASD also found that Gambill failed to take adequate steps to supervise Losty or the activities of the firm's public finance group or to institute appropriate procedures to prevent violations from continuing.

Losty's suspension began July 3, 2000, and concluded at the close of

business on August 1, 2000. Gambill's suspension began July 3, 2000, and concluded at the close of business on July 24, 2000. (NASD Case #CAF000022)

Firms And Individuals Fined

Credit Research & Trading LLC (CRD #28830, Greenwich, Connecticut) and James Edward Kjorlien (CRD #846144, Registered Principal, New Canaan, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent (AWC) in which they were censured and fined \$10,000, jointly and severally. The firm was also fined an additional \$2,000 and required to revise its written supervisory procedures within 60 days of acceptance of this AWC by the National Adjudicatory Council (NAC). Without admitting or denying the allegations, the firm and Kjorlien consented to the described sanctions and to the entry of findings that the firm failed to identify order tickets of aggregated transactions in Nasdaq National Market® securities in a manner directed by the NASD and aggregated individual orders of 10,000 shares or more. The findings also stated that the firm, acting through Kjorlien, failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules applicable to trade reporting. (NASD Case #C11000012)

D.E. Frey & Company, Inc. (CRD #23595, Denver, Colorado) and Dale Edward Frey (CRD #214215, Registered Principal, Englewood, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. The firm was fined an additional

\$2,000. Without admitting or denying the allegations, the firm and Frey consented to the described sanctions and to the entry of findings that they, together with a former principal of the firm, represented in an offering memorandum for a private placement that investor funds would be returned if 500 units were not sold without stating a specified time by which the units must be sold. The findings also stated that the firm and Frey twice modified the minimum sales contingency during the course of the offering without returning the subscription payments already received and recommenced the offering on the basis of the new contingency. In addition, the NASD found that the firm permitted investor funds deposited in the escrow account for an offering to be invested in a manner not permitted for such funds. (NASD Case #C3A000023)

Fletcher and Faraday, Inc. (CRD #29769, Hempstead, New York), Kirk John Graham (CRD #1861660, Registered Principal, West Hempstead, New York) and Yury Sapir (CRD #2161448, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm and Graham were censured and fined \$17,500, jointly and severally, and firm and Sapir were censured and fined \$23,000, 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 Graham and Sapir, failed to report statistical and summary information regarding written customer complaints received by the firm to the NASD and failed to file summary reports for written customer complaints. The findings also stated that the firm, acting

through Graham, failed to employ a qualified and registered financial and operations principal. In addition, the NASD found that the firm, acting through Graham and Sapir, failed to prepare, maintain, and enforce written supervisory procedures that addressed registration, continuing education, and annual compliance meetings. The firm, acting through Sapir, failed to provide any Firm Element Continuing Education for its covered registered persons, conduct any evaluation of its training needs, develop a training plan, or maintain records documenting its training plan or completion of training by personnel. The firm, acting through Sapir, also failed to conduct annual compliance meetings with registered personnel. (NASD Case #C10000113)

Vaughan & Company Securities, Inc. (CRD #18826, Ridgewood, New Jersey) and **James Daniel Vaughan, III (CRD #1330813, Registered Principal, Ridgewood, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$11,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they allowed an individual to act as a general securities principal of the firm when that individual was not registered in that capacity. The findings also stated that the firm, acting through Vaughan, failed to maintain written supervisory procedures, complete an annual training needs analysis, and develop and implement a written training plan so as to achieve compliance with the Firm Element of the Continuing Education rules. Furthermore, the NASD determined that the firm, acting through Vaughan, failed to maintain written supervisory

procedures, or adequate supervisory procedures describing its method of supervision regarding various significant areas of its business operations. (NASD Case #C9B000020)

Firms Fined

Anderson & Strudwick, Inc. (CRD #48, Richmond, Virginia) 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 associated persons of the firm served as officers and directors of publicly traded companies while the firm made a market in the companies' stock and engaged in purchase and sale transactions with its customers. The NASD found that, in connection with these transactions, the firm failed on a regular basis to disclose in writing, at or prior to the completion of the transaction, the existence of its control relationship with the companies. (NASD Case #C07000038)

Credit Research & Trading LLC (CRD #28830, Greenwich, Connecticut) 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 reported transactions in high yield corporate debt securities to the Fixed Income Pricing SystemSM (FIPS[®]) that it was not required to report. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable rules and regulations, such as

NASD rules regarding transaction reporting of high yield corporate debt securities. (NASD Case #CMS990104)

Sierra Brokerage Services, Inc. (CRD #36573, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000, of which \$5,000 shall be fined jointly and severally with an individual. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to the Automated Confirmation Transaction ServiceSM (ACTSM) transactions in OTC equity securities within 90 seconds of execution and failed to append the appropriate modifier to an OTC equity transaction after 4 p.m. The findings also stated that the firm failed to memorialize the correct time of execution and time of entry on order tickets, and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules with respect to trading and market-making activities. (NASD Case #C8A000036)

SunAmerica Capital Services, Inc. (CRD #13158, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$75,000, and required to revise its written supervisory procedures. The revised procedures should be submitted to the NASD within 60 days of acceptance of this AWC by the NAC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to file Form U-5 filings in a timely manner. The findings also stated

that the firm permitted an unregistered individual and registered representatives to conduct a securities business while their securities industry registrations were inactive because of their failure to satisfy the Regulatory Element of the NASD's Continuing Education Program. The firm also failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules regarding the processing of registration applications and terminations and compliance with the Regulatory Element. In addition, the NASD found that the firm's supervisory system failed to provide sufficient checks and balances to ensure compliance with the above areas. **(NASD Case #C11000014)**

WMA Securities, Inc. (CRD #32625, Duluth, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$125,000 and required to retain, within 30 days, an outside consultant to perform four periodic reviews of the firm's compliance with NASD Rule 3070(c). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report statistical and summary information regarding customer complaints to the NASD. The findings also stated that the firm failed to establish, maintain, and enforce procedures reasonably designed to ensure that the firm reported customer complaints to the NASD. **(NASD Case #CAF000024)**

Individuals Barred Or Suspended

Jere Locke Beasley, Jr., (CRD #1593313, Registered Supervisor, Montgomery, Alabama) 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, Beasley consented to the described sanction and to the entry of findings that he executed unauthorized purchase and sale transactions in the account of a public customer. **(NASD Case #C05000032)**

Martin Marvin Berk (CRD #19421, Registered Principal, Jackson Heights, 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, Berk consented to the described sanction and to the entry of findings that he gave false and misleading information to public customers regarding his member firm's efforts to address their complaints. The findings also stated that Berk failed to provide adequate, reasonable, or heightened supervision of a registered person as required by an agreement with the New York Attorney General's Office and the firm's compliance manual. **(NASD Case #C10000089)**

Timothy George Brew (CRD #2315278, Registered Representative, Maplewood, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Brew

consented to the described sanctions and to the entry of findings that he effected and submitted order tickets for the purchase of 160,000 shares of American Depositary Receipts, each of which were purported to have been effected on a simultaneous riskless principal basis, when he knew that the entity he placed on the order ticket as a seller was not a party to the transaction.

Brew's suspension began July 17, 2000, and will conclude at the close of business on July 16, 2001. **(NASD Case #C04000025)**

Bruce Gregory Buscetto (CRD #1425416, Registered Principal, Newtown, Pennsylvania) 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, Buscetto consented to the described sanction and to the entry of findings that he disregarded his duty of fair dealing with public customers. According to the findings, Buscetto did not research securities that he recommended to customers and misled customers by: making material misrepresentations, including price predictions; and omitting material negative information during the offer, purchase, and sale of securities. **(NASD Case #C9B960019)**

Heath Anthony Butler (CRD #2509418, Registered Representative, New Orleans, Louisiana) 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, Butler consented to the described sanction and to the entry of findings that he signed and delivered investment contracts to

purchasers that contained fraudulent and deceptive misrepresentations regarding the uses to be made of the invested funds and the risks of the investments. The findings also stated that Butler engaged in private securities transactions without prior written notice to, and approval from, his member firm and made improper use of the customers' funds. **(NASD Case #C05000006)**

Craig Alan Chytraus (CRD #2577574, Registered Representative, Los Angeles, California) was fined \$40,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Chytraus effected unauthorized purchases and sales of common stock in the joint account of public customers.

Chytraus' suspension began August 7, 2000, and will conclude at the close of business on August 6, 2001. **(NASD Case #C02990070)**

James Joseph Crimi (CRD #2432789, Registered Representative, Brooklyn, New York) and **Joseph Anthony Ricci (CRD #1446665, Registered Representative, New York, New York)** submitted Offers of Settlement in which Crimi was suspended from association with any NASD member in any capacity for three months and Ricci was suspended from association with any NASD member in any capacity for four months. In addition, the respondents were required to requalify by examination as general securities representatives within 90 days. In light of the financial status of the respondents, no monetary

sanctions have been imposed. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they effected unauthorized transactions and solicited customers to purchase shares in the aftermarket prior to the effective date of an initial public offering (IPO). The findings also stated that Crimi opened an account and purchased shares without a public customer's permission. In addition, the NASD found that Ricci failed to disclose material facts to customer, conditioned a customer's right to purchase IPO units on his agreeing to purchase shares in the aftermarket, and made a price prediction and misrepresentation to a customer.

Ricci's suspension began July 17, 2000, and will conclude at the close of business on November 16, 2000. Crimi's suspension will begin November 20, 2000, and conclude at the close of business on February 19, 2001. **(NASD Case #C10970143)**

James Patrick Detullio (CRD #714757, Registered Representative, Cheshire, Connecticut) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for nine months. The fine is due and payable prior to reassociation with a member firm or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Detullio consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information in a timely manner.

Detullio's suspension began July 17, 2000, and will conclude at the

close of business on April 16, 2001. **(NASD Case #C11000008)**

Laura Chapman Ehrenzeller (CRD #2804394, Registered Representative, Titusville, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ehrenzeller submitted a false application for a deferred variable annuity to her member firm, forged a public customer's signature on a check to pay for the annuity, and accepted \$10,350 in commissions from the sale of the annuity under false pretenses. **(NASD Case #C05990056)**

John Edwin Evans (CRD #1649451, Registered Principal, Dunwoody, Georgia) was barred from association with any NASD member in any capacity and ordered to pay \$19,976.36, plus interest, in restitution to public customers. The sanctions were based on findings that Evans made false and misleading statements and impermissible guarantees against loss to induce customers to purchase securities. Evans also failed to respond to NASD requests for information. **(NASD Case #C07990035)**

Martin Yungshu Fang (CRD #2934646, Registered Representative, Monterey Park, California) 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, Fang consented to the described sanction and to the entry of findings that he executed unauthorized purchases and sale transactions in the accounts of public customers without the customers' knowledge and consent and without written or oral authorization to exercise discretion

in the customers' accounts. Fang also failed to respond to NASD requests for information and to appear at an on-the-record interview. **(NASD Case #C02000021)**

Danny Paul Fletcher (CRD #2428135, Registered Representative, Dallas, Texas) was fined \$20,000, suspended from association with any NASD member in any capacity for 30 days, and barred from association with any NASD member in any capacity. The fine is due and payable upon reentry into the securities industry. The sanctions were based on findings that Fletcher engaged in outside business activities and failed to provide prompt written notice of such activities to his member firm. Fletcher also failed to respond to NASD requests for information.

Fletcher's suspension began August 7, 2000, and will conclude at the close of business on September 5, 2000. **(NASD Case #C06990024)**

Brian Abraham Fried (CRD #2659427, Registered Representative, Smithtown, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Fried consented to the described sanctions and to the entry of findings that he falsified the telephone numbers of public customers on new account forms.

Fried's suspension began August 7, 2000, and will conclude at the close of business on September 5, 2000. **(NASD Case #C10000054)**

Richard Joseph Gambale (CRD #2470972, Registered

Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity, including clerical or ministerial functions, and required to pay \$274,500 in restitution, plus interest, to public customers. Proof of restitution is required prior to reassociation with a member firm or request for relief from any statutory disqualification. Without admitting or denying the allegations, Gambale consented to the described sanctions and to the entry of findings that he engaged in fraudulent conduct in connection with the offer and sale of securities by using an offering memorandum that represented the type of business in which his member firm would engage and continued to use the same memorandum to solicit investors even though the funds would not be used as represented. The findings also stated that Gambale engaged in private securities transactions, away from his member firm, without prior written notification to, or written approval from, his member firm. **(NASD Case #C10000108)**

Joshua Edward Garfinkle (CRD #3106267, Registered Representative, Aventura, 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, Garfinkle consented to the described sanction and to the entry of findings that he made improper use of a \$350 check given to him by his member firm for attendance at a seminar. He failed to pay for the seminar, and, instead, altered the check by adding his name as payee and deposited the funds into his personal banking account. The

findings also stated that Garfinkle failed to respond to NASD requests for information. **(NASD Case #C11000011)**

Patricia Leanora Gill (CRD #1079696, Registered Representative, Torrance, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Gill caused public customers' investment of \$281,000 in a mutual fund to be liquidated and upon receipt of the liquidation check, converted the funds to her own use. Gill also failed to respond to NASD requests for information. **(NASD Case #C02000001)**

Christopher Edwin Grant (CRD #2752229, Registered Representative, Raytown, Missouri) submitted an Offer of Settlement in which he was fined \$5,000 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, Grant consented to the described sanctions and to the entry of findings that, without the knowledge or approval of a public customer, he completed a beneficiary designation on an annuity application naming himself as the beneficiary.

Grant's suspension began July 17, 2000, and will conclude at the close of business on August 16, 2000. **(NASD Case #C04000007)**

Paul Andrew Guercio (CRD #2571702, Registered Representative, Clinton Corners, New York) submitted an Offer of Settlement in which he was fined \$20,000, suspended from

association with any NASD member in any capacity for six months, and ordered to pay \$13,000 in restitution to public customers. Payment of the fine and proof of restitution are required 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, Guercio consented to the described sanctions and to the entry of findings that, in connection with the purchase and sale of securities in the joint account of customers, he intentionally or recklessly employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted material facts necessary in order to make statements not misleading; or engaged in acts, practices, or courses of business which operated as a fraud or deceit. The NASD also found that Guercio failed to respond to NASD requests for written information.

Guercio's suspension began July 17, 2000, and will conclude at the close of business on January 16, 2001. **(NASD Case #C10000026)**

Robert Anthony Guidici Pietro (CRD #1588069, Registered Representative, Staten Island, New York) submitted an Offer of Settlement in which he was fined \$40,000, suspended from association with any NASD member in any capacity for 18 months, required to requalify as a general securities representative before acting in that capacity again, and required to pay \$70,000 in restitution to public customers. In addition, if Guidici Pietro is employed by a member firm after his suspension, he shall not be permitted to continue such employment unless the firm has adopted and implemented

compliance programs and procedures with respect to Guidici Pietro. Without admitting or denying the allegations, Guidici Pietro consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Guidici Pietro failed to execute customer sell orders or to place a "stop loss" order on a security. In addition, the NASD found that Guidici Pietro falsified account documentation and provided untruthful, incomplete, misleading, or inaccurate testimony during an NASD on-the-record interview.

Guidici Pietro's suspension began on July 17, 2000, and will conclude at the close of business on January 16, 2002. **(NASD Case #C10000026)**

Barry Charles Honig (CRD #2362713, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Honig consented to the described sanctions and to the entry of findings that he sought to inappropriately coordinate a trade report to ACT with another market participant as two separate trades instead of one.

Honig's suspension began July 3, 2000, and concluded at the close of business on July 17, 2000. **(NASD Case #CMS000118)**

Jon Allison Horton (CRD #2377125, Registered Representative, Cleveland, North

Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Horton consented to the described sanction and to the entry of findings that, in his capacity as church treasurer, he converted approximately \$50,000 in church funds to his own use. **(NASD Case #C07000045)**

Charles Marvin Hunsel (CRD #2993883, Registered Representative, Wentzville, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Hunsel consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without giving prior written notice to, or receiving written approval from, his member firm.

Hunsel's suspension began July 17, 2000, and will conclude at the close of business on September 15, 2000. **(NASD Case #C04000022)**

Leslie Jay Jacobson (CRD #1892452, Registered Representative, Woodbury, New York) was suspended from association with any NASD member in any capacity for two years and required to requalify in all capacities. In light of the financial status of the respondent, no monetary sanction has been imposed. The sanctions were based on findings that Jacobson engaged in unauthorized trading in the accounts of public customers

and exercised discretion in a customer's account without written authority. The findings also stated that Jacobson effected transactions in the joint account of public customers that were excessive in nature and unsuitable in light of the customers' objectives and needs.

Jacobson's suspension began August 7, 2000, and will conclude at the close of business on August 6, 2002. **(NASD Case #C3A970018)**

Otto Lee Jarrell (CRD #1564635, Registered Representative, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Jarrell consented to the described sanction and to the entry of findings that he engaged in private securities transactions without providing prior written notice of his participation to his member firm. The findings also stated that Jarrell was in the business of effecting securities transactions for the accounts of others when he was not registered as a broker/dealer. **(NASD Case #C3A000025)**

Andrew Edward Kamer (CRD #2577269, Registered Representative, Great Neck, 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, Kamer consented to the described sanction and to the entry of findings that he submitted false or fictitious life insurance applications. The NASD also found that Kamer failed to respond to

NASD requests for information. **(NASD Case #C10000074)**

Janet Lorraine Keitt (CRD #2764397, Registered Representative, Amityville, New York) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Keitt consented to the described sanction and to the entry of findings that she used forged withdrawal slips to misappropriate approximately \$47,300 from the passbook savings accounts of bank customers without their knowledge, authorization, or consent. The findings also stated that Keitt failed to respond to NASD requests for information and documentation. **(NASD Case #C10000081)**

John F. Kelly (CRD #1445876, Registered Representative, Milton, Massachusetts) 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 the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Kelly consented to the described sanction and to the entry of findings that he engaged in the sale of private securities transactions without providing prior written notice to, or receiving approval from, his member firm. The findings also stated that Kelly failed to disclose the existence of a civil action on his Form U-4.

Kelly's suspension began August 7, 2000, and will conclude at the close of business on February 6, 2001. **(NASD Case #C11000013)**

Jeffrey Alan Klawitter (CRD #1439576, Registered

Representative, Downers Grove, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Klawitter engaged in improper use of customers' funds by instructing public customers to pay \$1,550 for investment services by writing personal checks to him. Klawitter accepted and cashed the checks for his personal use. Klawitter also failed to respond to NASD requests for information. **(NASD Case #C8A000006)**

Mark Jerome Koetting (CRD #2277618, Registered Representative, Norwalk, Connecticut) 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 any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Koetting consented to the described sanctions and to the entry of findings that he engaged in an outside business activity and received compensation for such activity without providing prompt written notification to his member firm.

Koetting's suspension began July 17, 2000, and concluded at the close of business on July 28, 2000. **(NASD Case #C04000023)**

Pedro Antonio Lombert (CRD #3055244, Registered Representative, Los Angeles, California) 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. In light of the financial status of the respondent, no monetary sanction has been imposed.

Without admitting or denying the allegations, Lombert consented to the described sanction and to the entry of findings that he completed a Form U-4 for his member firm and failed to disclose a felony charge.

Lombert's suspension began July 17, 2000, and will conclude at the close of business on August 16, 2000. **(NASD Case #C02000038)**

Thomas Salvatore Marinovich, Jr. (CRD #2112801, Registered Representative, Greenlawn, New York) was fined \$2,500, suspended from association with any NASD member in any capacity for 20 business days for failing to register, and barred from association with any NASD member in any capacity for misrepresentations. The fine is due and payable prior to reentry in the securities industry. The sanctions are based on findings that Marinovich facilitated and assisted in implementing a boiler room scheme at his member firm by training the firm's brokers to use high pressure sales tactics and misleading sales scripts to solicit investments in the firm's house stocks. Marinovich also promoted "second trading" in which customers were aggressively solicited to purchase a house stock whether or not it was suitable in light of the customer's financial objectives, needs, and risk profile. The findings also stated that Marinovich acted in the capacity of a principal without being registered with the NASD as a principal.

Marinovich's suspension began August 7, 2000, and will conclude at the close of business on September 1, 2000. **(NASD Case #CAF990049)**

John Christopher McAfee (CRD #722940, Registered Representative, Missoula, Montana) 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 shall be due and payable prior to reassociation with a member firm following the suspension. Without admitting or denying the allegations, McAfee consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm.

McAfee's suspension began August 7, 2000, and will conclude at the close of business on August 6, 2002. **(NASD Case #C3A000014)**

Kenneth Charles Meissner (CRD #601189, Registered Representative, Fair Oaks Ranch, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Meissner consented to the described sanction and to the entry of findings that he participated in a private securities transaction and failed to provide written notice to his member firm describing this proposed transaction and his role in it, and whether he had received or might receive selling compensation in connection with this transaction. **(NASD Case #C06000010)**

Christopher Lee Miano (CRD #2847056, Registered Representative, Deerfield Beach, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay \$53,704.85, plus interest, in restitution to public customers. Proof of restitution with interest shall be a prerequisite to any application or request for relief

from any statutory disqualification. Without admitting or denying the allegations, Miano consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in the accounts of public customers. The findings also stated that Miano falsely represented to a customer that he had effected the purchase and sale of certain warrants in the customer's accounts at a profit, sent false confirmations of those transactions, and sent a false confirmation for a transaction that had not been effected. Miano also failed to appear for an on-the-record interview. **(NASD Case #C07000025)**

Jeffrey Kenneth Neuman (CRD #1424613, Registered Representative, Old Bridge, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,500, suspended from association with any NASD member in any capacity for 60 days, and ordered to requalify by exam as a general securities representative prior to acting again in any capacity requiring qualification. The fine shall be 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, Neuman consented to the described sanctions and to the entry of findings that he executed the signatures of public customers without their authorization on to both: a form to accommodate a customer's request to transfer funds; and a Letter of Authorization to accommodate a customer's request to redeem shares. The NASD also found that Neuman reimbursed a customer \$2,000 for surrender fees assessed on the customer's account out of his personal checking account without

his member firm's knowledge or consent.

Neuman's suspension began August 7, 2000, and will conclude at the close of business on October 5, 2000. **(NASD Case #C10000097)**

Steven Alvin Owsley (CRD #2715942, Registered Principal, Marina Del Rey, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Owsley consented to the described sanction and to the entry of findings that he permitted an unregistered individual to act as a branch manager in a principal capacity. The findings also stated that Owsley failed to preserve his member firm's books and records, and failed to establish, maintain, or enforce procedures reasonably designed to detect and prevent violations of applicable securities laws and regulations with respect to the branch office run by the unregistered individual. The NASD found that Owsley did not adequately supervise the unregistered individual as Owsley failed to detect and prevent violations of securities laws. **(NASD Case #C02000019)**

Michael Joseph Payne (CRD #2488328, Registered Representative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Payne failed to pay a \$34,168.75 arbitration award and failed to respond to NASD requests for information and to provide documents. **(NASD Case #C10000002)**

Jerome Edward Rosen (CRD #404216, Registered

Representative, Miami, Florida) was fined \$32,000 and suspended from association with any NASD member in any capacity for 10 days. The NAC imposed the sanctions following appeal of a Market Regulation Committee decision issued in November 1998. The sanctions were based on findings that Rosen engaged in anti-competitive harassment of another market maker by making a series of telephone calls to the broker in which he attempted to harass the broker for engaging in competitive trading and entering competitive quotations, and otherwise attempted to improperly influence or interfere with the broker's competitive activities. Rosen also made certain threatening statements to the broker. The findings also stated that Rosen backed away from a specific order another broker placed with him at his quoted bid or offer for a Nasdaq SmallCapSM security.

Rosen's suspension began August 7, 2000, and will conclude at the close of business on August 16, 2000. **(NASD Case #CMS970027)**

Vincent Paul Rossetti, Jr. (CRD #2549502, Registered Representative, Ozone Park, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity, including clerical or ministerial functions. Without admitting or denying the allegations, Rossetti consented to the described sanction and to the entry of findings that he failed to respond to questions during an NASD on-the-record interview and failed to respond to NASD requests for information and documents. **(NASD Case #C10000098)**

Frank Joseph Santoli (CRD #2732828, Registered

Representative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Santoli entered false information on a customer's new account form and executed transactions in the account of public customers without their approval or consent. The findings also stated that Santoli failed to respond to NASD requests for information. **(NASD Case #C10990177)**

Gary Paul Schmidt (CRD #1264908, Registered Representative, Point Pleasant, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, which includes disgorgement of approximately \$3,000 in commissions, and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Schmidt consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the account of a public customer without prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm.

Schmidt's suspension began August 7, 2000, and will conclude at the close of business on September 6, 2000. **(NASD Case #C05000030)**

John Patrick Sciascia (CRD #1484276, Registered Representative, Staten Island, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. In light of the financial status of the respondent, no monetary sanction has been imposed. Without

admitting or denying the allegations, Sciascia consented to the described sanction and to the entry of findings that he engaged in unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Sciascia failed to follow customer instructions to sell securities and warrants and provided untruthful, incomplete, misleading, or inaccurate information during an NASD on-the-record interview. **(NASD Case #C10000026)**

Donald Arthur Sedy (CRD #2283690, Registered Representative, Greenlawn, New York) submitted an Offer of Settlement in which he was fined \$20,000, barred from association with any NASD member in any capacity with the right to reapply after three years, and ordered to pay \$18,294.25 in restitution to public customers. Payment of the fine and proof of restitution are required prior to reassociation with a member firm or request for relief from any statutory disqualification. Without admitting or denying the allegations, Sedy consented to the described sanctions and to the entry of findings that he engaged in unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. **(NASD Case #C10000026)**

Jung Ran June Shin (CRD #2167430, Registered Representative, Los Angeles, California) 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 one month. Without admitting or denying the allegations, Shin consented to the described sanctions and to the entry of

findings that she signed the name of a public customer to a variable life insurance application supplement without the knowledge or consent of the customer. The findings also stated that Shin altered a check she received from the customer for the purchase of variable life insurance without the customer's knowledge or consent.

Shin's suspension began July 17, 2000, and will conclude at the close of business on August 16, 2000. **(NASD Case #C02000032)**

Aleksandr Shvarts (CRD #1718124, Registered Principal, Brooklyn, New York) was fined \$5,000, suspended from association with any NASD member in any capacity for six months, and ordered to submit proof that he has paid \$47,651.12, plus interest, in restitution to public customers within 60 days of the date of this decision or he shall be barred from association with any member firm in any capacity. The NAC imposed the sanctions following appeal of an Office of Hearing Officers decision. The sanctions were based on findings that Shvarts failed to comply with a court judgment awarding attorney fees and costs to his former customers that they incurred in litigation which he filed against them challenging an arbitration award they had won from him.

Shvarts' suspension began July 3, 2000, and will conclude at the close of business on January 2, 2001. **(NASD Case #CAF980029)**

Dmitry Slidovker (CRD #2523974, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Slidovker made unauthorized purchases in the accounts of public

customers without their authorization, consent, or knowledge. The findings also stated that Slidovker knowingly and recklessly made improper price predictions to customers regarding a speculative security without having a reasonable basis for making the predictions. **(NASD Case #CAF000001)**

Dave Andrew Solomon (CRD #2703512, Registered Representative, Plainview, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days including clerical or ministerial capacities. Without admitting or denying the allegations, Solomon consented to the described sanctions and to the entry of findings that, in an attempt to settle a customer complaint, he sent a customer a \$14,500 check without the knowledge or consent of his member firm.

Solomon's suspension began August 7, 2000, and will conclude at the close of business on August 18, 2000. **(NASD Case #C10000094)**

Michael Ernest Watts (CRD #1777078, Registered Representative, Sugarland, Texas) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and required to pay an \$81,514.11 arbitration award. The fine and arbitration award must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Watts consented to the described sanctions and to the entry of findings that he failed to

honor a New York Stock Exchange arbitration award. Watts also failed to respond to NASD requests for information.

Watt's suspension began July 17, 2000, and will conclude at the close of business on July 16, 2001. **(NASD Case #C06000002)**

John C. Welling (CRD #2837015, Registered Representative, Lee's Summit, Missouri) was barred from association with any NASD member in any capacity. The sanction was based on findings that Welling forged a public customer's signature on checks totaling \$6,500 and converted the funds to his own use without the knowledge or consent of the customer. **(NASD Case #C04000008)**

Edward John Williams, Jr. (CRD #2662639, Registered Representative, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two weeks. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Williams consented to the described sanction and to the entry of findings that he engaged in outside business activities without providing prior notice to the member firm.

Williams' suspension began July 17, 2000, and concluded at the close of business on July 28, 2000. **(NASD Case #C02000031)**

Robert Timothy Willison (CRD #468671, Registered Representative, Littleton, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$5,000, and suspended from

association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Willison consented to the described sanctions and to the entry of findings that he forged a signature to a signature guarantee stamp on a customer account application for mutual fund advisory services.

Willison's suspension began August 7, 2000, and concluded at the close of business on August 11, 2000. **(NASD Case #C3A000019)**

Tyler Christopher Wilson (CRD #2577470, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$21,000 in restitution to a public customer. Proof of restitution is required prior to any application for relief from any statutory disqualification. Without admitting or denying the allegations, Wilson consented to the described sanctions and to the entry of findings that he effected transactions in the account of a public customer without the prior knowledge or authority of the customer. Wilson also failed to respond to an NASD request to appear and give testimony in an on-the-record interview. **(NASD Case #C10000093)**

Michael Levan Woods (CRD #2212755, Registered Representative, Springfield, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$16,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or

denying the allegations, Woods consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Woods' suspension began on July 17, 2000, and will conclude at the close of business on July 16, 2002. **(NASD Case #C04000024)**

Individuals Fined

Scott Ira Benedon (CRD #1276090, Registered Representative, Marlboro, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, Benedon consented to the described sanctions and to the entry of findings that he allowed a trader at a member firm to report a trade to ACT as two separate trades instead of one. **(NASD Case #CMS000117)**

Stephan Peter Boruchin (CRD #1201115, Registered Principal, Edmond, Oklahoma) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$15,000. Without admitting or denying the allegations, Boruchin consented to the described sanctions and to the entry of findings that he entered an order to purchase securities from another firm when he knew, or should have known, that his member firm could not purchase securities because it had been restricted by its clearing firm from effecting transactions other than those involving sales of securities in the accounts of customers at his member firm. The findings also stated that Boruchin failed to disclose the restriction when he purchased the securities and failed

to acknowledge to any of the firms involved that he had placed the order. In addition, Boruchin failed to disclose his petition for bankruptcy or that the petition had been discharged within the time required by the NASD. **(NASD Case #C3A000022)**

Mark Aaron Sutter (CRD #1913698, Registered Representative, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$26,000 which includes disgorgement of \$11,000 in financial benefits. Without admitting or denying the allegations, Sutter consented to the described sanctions and to the entry of findings that he participated in private securities transactions for compensation without providing prior written notice to his member firm. The findings also stated that Sutter failed to disclose to his member firm that he was the beneficial owner of common stock held in the account of another person. **(NASD Case #C3A000015)**

Decision Issued

The following decision has been issued by the District Business Conduct Committee or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of July 14, 2000. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Daniel Dwight Manoff (CRD #1720001, Registered Representative, Poolesville, Maryland) was barred from association with any NASD member in any capacity. The

sanction was based on findings that Manoff made unauthorized charges to a credit card that belonged to a co-worker.

Manoff has appealed this action to the NAC and the sanction is not in effect pending consideration of the appeal. **(NASD Case #C9A99007)**

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.

Michael Henry Antell (CRD #2707953, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he engaged in a private security transaction without providing his member firm with verbal or written notification and failed to receive written approval from his member firm to participate in the transaction. The complaint also alleges that Antell made misrepresentations and improper price predictions in connection with his solicitations and recommendations to public customers. The complaint further alleges that Antell effected a purchase in the account of a public customer without the knowledge, authorization, or consent of the customer. In addition, the complaint alleges that Antell failed to respond to NASD requests to appear for on-the-record interviews. **(NASD Case #C10000118)**

Erdem Bessim (CRD #2746643, Registered Representative, Thiells, New York) was named as a respondent in an NASD complaint alleging that he converted \$23,921.30 in cashiers checks from public customers for his own benefit or use. The complaint also alleges that Bessim failed to respond to NASD requests for information. **(NASD Case #C10000105)**

James Joseph Corcoran (CRD #2328082, Registered Principal, Patchogue, New York) was named as a respondent in an NASD complaint alleging that he materially misrepresented the nature and circumstances of transactions and omitted to disclose material information concerning compensation for transactions and predicted the future price of a security when he knew, or should have known, that the security was speculative for which a prediction was inherently misleading and that he did not have a reasonable basis for making the prediction. **(NASD Case #C3A000028)**

Stephen Kenneth Faber (CRD #2132958, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he executed transactions in the account of public customers without their knowledge or consent and in the absence of their written or oral authorization. The complaint also alleges that Faber failed to respond to NASD requests for information. **(NASD Case #C10000112)**

Darrell Wayne Flowers, Sr. (CRD #2242139, Registered Representative, Fairview, Tennessee) was named as a respondent in an NASD complaint alleging that he exercised discretionary authority in a customer's account without the customer's prior written authorization and his member firm's

written acceptance of the account as discretionary. The complaint also alleges that Flowers shared in the profits of the customer's account without his firm's prior written authorization and exercised purchase transactions in the customer's account without the customer's prior knowledge, authorization, or consent. **(NASD Case #C10000103)**

Percival Anthony Jones, Sr. (CRD #2506769, Registered Representative, Los Angeles, California) was named as a respondent in an NASD complaint alleging that he received \$3,000 from a public customer for investment purposes, failed to follow the customer's instructions, and converted the funds for his own use and benefit without the customer's knowledge or consent. The complaint also alleges that Jones failed to respond to NASD requests for information. **(NASD Case #C02000036)**

Kenneth Browning Karpf (CRD #1798596, Registered Representative, Spring, Texas) was named as a respondent in an NASD complaint alleging that he effected securities transactions in the accounts of public customers without their authorization. **(NASD Case #C06000011)**

Martin Lee Rising (CRD #1011762, Registered Representative, Paradise Valley, Arizona) was named as a respondent in an NASD complaint alleging that he represented that an offering was subject to a minimum sales contingency, failed to conform the conduct of that offering to that representation, failed to return investor funds upon failure to satisfy the minimum sales contingency, and continued to solicit purchases of units after the

offering should have been terminated. The complaint also alleges that Rising knew, or should have known, that the offering materials contained material misrepresentations that were misleading and would be of significance in the investor's decision to invest. **(NASD Case #C3A000012)**

Benjamin Dennis Roberts (CRD #2013405, Registered Principal, Columbus, Georgia) was named as a respondent in an NASD complaint alleging that he forged the signatures of public customers on new account forms without authorization from the customers. The complaint further alleges that Roberts failed to respond to NASD requests for information. **(NASD Case #C07000042)**

Paul Salim Tahan (CRD #2494916, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he made material omissions, price predictions, misrepresentations, and unsuitable recommendations to public customers. The complaint also alleges that Tahan both failed to respond and failed to respond timely to NASD requests for information. **(NASD Case #C07000039)**

Laura Lea Taylor (CRD #2719777, Registered Representative, San Angelo, Texas) was named as a respondent in an NASD complaint alleging that she received \$1,153 from a public customer representing payment for a life insurance policy and without the customer's authorization, knowledge, or consent, she used the funds for her own use and benefit. **(NASD Case #C06000013)**

Dennis Vavasis (CRD #2542183, Registered Representative, Massapequa, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized trading in public customer accounts and failed to disclose material facts that a reasonably prudent customer would have wanted disclosed in making investment decisions and that he had a duty to disclose. The complaint also alleges that Vavasis made improper price predictions and failed to execute a customer's sale order. In addition, the complaint alleges that Vavasis induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices and contrivances. **(NASD Case #CAF000023)**

Firms Canceled

The following firms were canceled 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 cancellation commenced is listed after the entry.

Daly Investment Co., Palos Park, Illinois (July 11, 2000)

Millennium Capital LLC, Woodstock, Illinois (July 11, 2000)

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.

Anchor Investment Securities, Ltd., Geneva, Illinois
(June 26, 2000)

Remington Securities Corp., New York, New York (July 12, 2000)

NASD Regulation Charges All-Tech, Houtkin, And Others With Day-Trading And Advertising Violations

NASD Regulation announced that it has issued a disciplinary complaint charging All-Tech Direct, Inc., of Montvale, NJ; Harvey I. Houtkin, Chairman and CEO; Mark D. Shefts, President; and Harry Lefkowitz, Vice President of Operations with violating NASD rules in connection with All-Tech's day-trading business. In addition, David Niederkrome, Michael Benson, and Jeffrey Sadowski, current or former owners of the Seattle, Washington; Portland, Oregon; and Chicago, Illinois branch offices of All-Tech were also named in the complaint.

The complaint alleges that All-Tech, Shefts, and Lefkowitz failed to supervise the activities of employees who arranged loans between customers to cover margin calls, known as "journaling." The loans were necessary to enable customers to meet margin calls, thereby allowing them to continue trading and generating commissions for All-Tech. While the journaling occurred nationwide, NASD Regulation focused on five branches and found that from January 1998 to January 1999, over 4,800 journals were recorded,

transferring over \$130 million in loans between customer accounts. In many instances, the loans were arranged by unregistered persons, involving customers at different branches who did not know each other, and carrying fees, sometimes at usurious rates. Many journal forms were forwarded to All-Tech's clearing firm without the requisite signatures. In addition, many had non-registered persons signing as branch manager, traders signing without full authority, and photocopied customer and branch manager signatures. According to the complaint, Niederkrome and other All-Tech employees misrepresented the risks associated with the loans by telling customers they were virtually risk-free. In fact, one customer lost approximately \$40,000 by making a loan that was misrepresented to him as risk-free.

NASD Regulation also alleged that All-Tech and Houtkin made misleading, exaggerated, and unsupported statements in a number of print and radio advertisements, in material posted on the firm's Web Site, as well as during television appearances and in his first book, which was distributed by the firm. Statements include:

- "Most of my customers have enjoyed successes virtually unheard of in the trading community."
- "[A]nyone with the financial capability and desire has the opportunity to participate in the market with the same advantages as a market-making pro."
- "If you meet parameters set forth in this guide . . . your probability of success will be exceptionally high."

- "Electronic day trading appeals to executives, retirees, graduating college students, and anyone who recognizes the unlimited earnings potential and quality of life which an electronic day trader may achieve."
- "Three in ten" and "four in ten" people trained as day traders will become successful.

The complaint also charges All-Tech, Houtkin, and Shefts with violating NASD rules by permitting Jeffrey Sadowski, a statutorily disqualified person, to participate actively in the firm's securities-related activities even though he had been barred from the securities industry by the SEC in 1988. NASD Regulation further alleges that the firm, Houtkin and Shefts, violated NASD rules by failing to properly register Michael Benson, who was also charged.

The investigation leading up to this action was conducted by NASD Regulation's Enforcement Department with assistance from NASD Regulation's Advertising Regulation Department.

NASD Regulation Files Action Against Day-Trading Firm For Registration And Supervisory Violations

NASD Regulation announced that it has filed a disciplinary action against Stock USA, Inc. of San Diego, California; Ralph Mann, President; Jason Miradoli, former manager of Stock USA's Roslyn, New York branch office; and Harry Edward Bassett III, not affiliated with the firm. The complaint charges that the firm allowed a branch office to operate with inadequate supervision and allowed an unregistered person, who was statutorily disqualified, to actively

participate in the securities business of the office by recommending securities and recruiting customers.

Between approximately January 28, 1999, and April 7, 1999, Stock USA operated a day-trading branch office in Roslyn, New York, from office space also occupied by Sagamore Capital Trading, Inc., which is not an NASD member. Sagamore recruited and trained individuals to become day traders. Although the Roslyn office was designated as a Stock USA branch office, it was, in reality, run as a Sagamore office. The only person at the branch who was actively involved in recruiting customers and rendering investment advice to customers was a Sagamore employee, Harry Edward Bassett III. Bassett's activities required him to be registered with Stock USA. However, Bassett was not only unregistered, but was statutorily disqualified from associating with any NASD member firm as a result of a prior criminal conviction. The sole registered person at the Roslyn office, branch manager Jason Miradoli, exercised no control over office operations, had virtually no supervisory experience or experience in the day-trading area, and did not even have a key to the office.

The complaint further alleges that even though Stock USA had 10 offices engaged in distinctly different types of business, including some day-trading offices, it failed to appropriately tailor its written supervisory procedures to address its various lines of business.

The complaint charges that the firm and Miradoli improperly allowed Bassett to actively participate in the firm's securities business without being registered and while he was

disqualified; that the firm, Mann, and Miradoli failed to establish and maintain a system to supervise the activities of the Roslyn office; that the firm and Mann failed to establish and maintain adequate written supervisory procedures to address the specific types of business engaged in by the firm; and that Bassett violated the NASD By-Laws and Membership Rule provisions relating to registration requirements and association by statutorily disqualified persons.

NASD Regulation Charges San Clemente Securities, Execs With Fraud

NASD Regulation announced that it has issued a complaint against San Clemente Securities, Inc., charging the firm and others with misconduct in connection with the offer and sale of certificates of deposit (CDs) during the period June 1999 to March 2000. San Clemente Securities, Inc., which was headquartered in San Clemente, California, had offices nationwide. It filed to withdraw its membership from the NASD in June 2000.

In addition to the firm, the complaint charges San Clemente's two owners and officers, Cooke Christopher, the firm's President and Chairman; and Thomas Sunderland, its Executive Vice President, with fraudulent conduct in connection with the promotion and sale of the CDs. Sales persons associated with San Clemente were also named in the complaint. Jeffrey Schwertfeger, Jeffrey Katz, and Gennaro (Jerry) Chiappetta were charged with fraudulent misrepresentations and omissions. Douglas Eichenberger, Justin Irving, Randy Rondberg, and Jeffrey Vann were charged with making misrepresentations and/or failing to disclose information to San Clemente investors in connection with CDs purchased during the period alleged.

The complaint charges that San Clemente, acting through Christopher, devised a CD investment program for the purpose of making CDs held and serviced by United Custodial Corporation, an entity not regulated as a bank, trust company, or broker/dealer, appear more attractive to investors than conventional CDs traditionally purchased directly from banks. Although the CDs are actual, valid, bank-issued certificates of deposit, it is alleged that the investment program was operated as a fraud upon public investors due to material misrepresentations and omissions made to investors regarding FDIC insurance coverage, investment yield, and fees and commissions charged on the CD investments. In addition, the complaint alleges that the firm failed to provide accurate information regarding account balances and interest accrual.

The allegations focus on "interest-at-maturity" or "zero coupon" CDs which, on behalf of San Clemente's customers, were held and serviced by United Custodial. The complaint alleges that the sale of these CDs comprised approximately 62 percent of San Clemente's business activities, generating \$2.3 million in gross revenues. The complaint also asserts that during the period at issue, investors were not told that United Custodial was affiliated with San Clemente and owned by Cooke Christopher and Thomas Sunderland.

NASD Regulation wishes to acknowledge the assistance provided in this matter by the SEC's Pacific Regional Office.

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