

Disciplinary Actions

Disciplinary Actions Reported For April

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). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, April 17, 2000. The information relating to matters contained in this *Notice* is current as of the end of March 24, 2000.

Firms And Individuals Fined

Capital Strategies Limited (CRD #10253, Philadelphia, Pennsylvania) and **Bart Steven Kaplow (CRD #264208, Registered Principal, Philadelphia, Pennsylvania)**

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured; fined \$13,500, jointly and severally; and required to pay \$1,792.32 in restitution to public customers. Without admitting or denying the allegations, the firm and Kaplow consented to the described sanctions and to the entry of findings that the firm, acting through Kaplow, failed to evaluate and prioritize its training needs and failed to develop a written training plan. The findings also stated that the firm, acting through Kaplow, effected transactions in equity securities prior to receiving a modification to, or removal of, the restriction limiting its business transactions in specified securities which did not include equities. In addition, the firm, acting through Kaplow, failed to establish written procedures to supervise its equities business and the activities of its registered representatives in effecting equities transactions. Furthermore, the firm, acting

through Kaplow, failed to fulfill its obligation to obtain the best execution of market orders pertaining to an equity security in that it failed to process orders internally and transmit them to the firm's clearing house in a timely manner. **(NASD Case #C9A000009)**

Charter One Securities, Inc. (CRD #13373, Cleveland, Ohio) and **Robert Joseph Thompson, Jr. (CRD #2667325, Registered Principal, Cleveland, Ohio)**

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the firm and Thompson consented to the described sanctions and to the entry of findings that the firm, acting through Thompson, effected transactions in securities when it failed to maintain the minimum required net capital. The findings also stated that the firm, acting through Thompson, filed materially false monthly FOCUS reports. **(NASD Case #C8B000003)**

First Security Investments, Inc. (CRD #24035, Kingston, Pennsylvania) and **Margaret Charles Slusser (CRD #1977559, Registered Principal, Wilkes-Barre, Pennsylvania)**

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the firm and Slusser consented to the described sanctions and to the entry of findings that the firm, acting through Slusser, failed to evaluate the firm's training needs, to develop a written training plan, and to administer Firm Element training to its covered registered persons pursuant to a written plan. The findings also

stated that the firm, acting through Slusser, failed to prevent representatives from performing duties as representatives even though they had failed to complete the Regulatory Element of Continuing Education by the required date. **(NASD Case #C9A000006)**

Janssen-Meyers Associates, L.P. (CRD #34171, New York, New York) and Bruce Meyers (CRD #1045447, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. The firm was also fined an additional \$16,000 and ordered to pay \$5,819 in restitution to public customers. Without admitting or denying the allegations, the firm and Meyers consented to the described sanctions and to the entry of findings that the firm, acting through Meyers, failed to enforce the firm's written supervisory procedures regarding trading restrictions. The findings also stated that the firm traded ahead of the execution of customer limit orders. **(NASD Case #C3A000005)**

Firms Fined

Chase Securities, Inc. (CRD #10793, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent (AWC) pursuant to which the firm was censured, fined \$12,500, and required to submit revised written supervisory procedures concerning transaction reporting within 60 days of acceptance of this AWC by the National Adjudicatory Council (NAC). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in Nasdaq National

Market® (NNM) securities to the Automated Confirmation Transaction ServiceSM (ACTSM) in a timely manner and failed to designate them as late to ACT. The firm also failed to report transactions executed outside normal market hours, to report their time of transaction, and to report listed securities transactions to ACT in a timely manner. The findings also stated that the firm failed to accept or decline transactions in eligible securities in a timely manner. Furthermore, 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 transaction reporting. **(NASD Case #CMS000012)**

Credit Suisse First Boston Corporation (CRD #816, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$40,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale transactions, failed to make an affirmative determination for each of the transactions, and failed to report short-sale transactions to ACT with a short-sale indicator. The findings also stated that the firm submitted an erroneous short interest position paper to the NASD and failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with the short-sale rules. **(NASD Case #CMS990030)**

Direct Access Brokerage Service (CRD #30057, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to

which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to respond in a timely manner to NASD requests for an automated submission of trading data for securities included in The Nasdaq Stock Market®, traded on a national securities exchange, or for non-Nasdaq® securities. The findings also stated that the firm submitted automated submissions of trading data after the date such information was required to be provided. **(NASD Case #CMS000023)**

Donald & Co. Securities, Inc. (CRD #7776, Tinton Falls, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and required to retain an independent consultant to review, and make recommendations to improve, the firm's net capital procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through an individual, it failed to maintain the required minimum net capital. **(NASD Case #C10970175)**

First Albany Corporation (CRD #298, Albany, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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 execute customer limit orders contemporaneously after it traded each security for its own market-making account at a price that would have satisfied each customer limit order. The firm failed to display customer limit orders immediately when the orders were at a

price that would have improved the firm's bid or offer in each security related to those orders. The findings also stated that the firm failed to display the full size of customer limit orders when the orders were priced equal to the firm's bid or offer and the national best bid or offer and the orders represented more than a *de minimus* change in relation to the size associated with the firm's bid or offer in each security. In addition, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules regarding recordkeeping, best execution, limit order display, the Quote Rule, limit order protection, anti-competitive practices, and trade reporting for equity and fixed income transactions. **(NASD Case #CMS000029)**

GKN Securities Corp. (CRD #19415, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured; fined \$68,500; required to pay \$1,356.25, plus interest, in restitution to public customers; and required to revise its written supervisory procedures relating to ACT compliance, best execution, limit order protection, trade reporting, and other rules and regulations 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 aggregated customer trades in NNM securities, Nasdaq SmallCapSM securities, and an OTC Bulletin Board[®] security for trade reporting purposes without designating reports with a .B modifier and without noting the aggregations on corresponding order tickets. The firm also reported transactions late without an .SLD modifier. The findings also stated that the firm failed to contemporaneously, or

partially, execute customer limit orders in Nasdaq securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order and failed to use reasonable diligence to ascertain the best inter-dealer market so that the resultant price to the customer was as favorable as possible under prevailing market conditions. The firm failed to display customer limit orders when the orders were at a price that would have improved the firm's bid or offer in each security related to those orders or when the full size of the orders was priced equal to the firm's bid or offer and the national best bid or offer and the orders represented more than a *de minimus* change in relation to the size associated with the firm's bid or offer in each security. The firm failed to report the correct capacity to ACT, failed to cancel a trade through ACT, and reported the wrong execution time to ACT. Furthermore, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with regard to the above matters. **(NASD Case #CMS000024)**

Goldman, Sachs & Company (CRD #361, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it untimely filed transactions in OTC equity securities on Form Ts with the NASD. The findings also stated that the firm failed to use reasonable diligence to ascertain the best inter-dealer market for the security and to buy and sell in such market so that the resultant price to each

customer was as favorable as possible under prevailing market conditions. In addition, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable NASD rules relating to transaction reporting via Form T. **(NASD Case #CMS000016)**

Pacific Growth Equities, Inc. (CRD #24835, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and required to revise the firm's written supervisory procedures relating to firm quote compliance 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 execute orders presented at its published bid or offer in an amount up to its published quotation size, thereby failing to honor its published quotation. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning the Securities and Exchange Commission (SEC) and the NASD firm quote rules. **(NASD Case #CMS000021)**

William V. Frankel & Co. (CRD #1895, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures relating to firm quote compliance in a manner acceptable 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 execute orders presented at its published bid or offer in an amount up to its published quotation size, thereby failing to honor its published quotation. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations concerning the SEC and the NASD firm quote rules. **(NASD Case #CMS000018)**

Individuals Barred Or Suspended

Kent Anderson (CRD #2717386, Registered Representative, Waterford, Michigan) was barred from association with any NASD member in any capacity. The sanction was based on findings that Anderson deposited a customer refund check into his personal account without the customer's knowledge or consent, failed to pay the premium for the customer's insurance policy, and, instead, used the funds for some purpose other than for the customer's benefit, thereby improperly using customer funds. The findings also stated that Anderson failed to respond to NASD requests for information. **(NASD Case #C8A990053)**

Mark Joel Appleton (CRD #702513, Registered Principal, Arvada, Colorado) submitted an Offer of Settlement pursuant to which he was fined \$12,500 and suspended from association with any NASD member in any supervisory capacity for 10 business days. The fine is due and payable prior to reassociation with a member firm following the suspension. Without admitting or denying the allegations, Appleton

consented to the described sanctions and to the entry of findings that he failed to supervise a registered representative in a manner reasonably designed to achieve compliance with applicable laws, rules, and regulations. The findings also stated that Appleton failed to establish written supervisory procedures to address adequately minimum sales contingencies, private securities transactions, membership and registration rules, and supervision. **(NASD Case #C3A990067)**

Jason Todd Ash (CRD #2608941, Registered Representative, Miller Place, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ash failed to respond to NASD requests for information regarding his termination from a member firm. **(NASD Case #C10990130)**

Dudley Alexander Biggs (CRD #2994166, Registered Principal, Yonkers, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Biggs consented to the described sanctions and to the entry of findings that he failed to disclose criminal charges on a Form U-4. **(NASD Case #C10000028)**

Merle Seth Brower, Jr. (CRD #1564817, Registered Representative, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brower consented to the described sanction and to the entry of findings

that he submitted life insurance applications to his member firm that were false and misleading in that they related to a fictitious person. **(NASD Case #C06000008)**

Daniel James Butchello, Jr. (CRD #2247132, Registered Representative, Olean, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Butchello failed to respond to NASD requests for information concerning termination from his member firm. **(NASD Case #C8B990029)**

Sylvester Cannon, Jr. (CRD #2766126, Registered Representative, Detroit, Michigan) was fined \$25,000 and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The decision became final following Cannon's dismissed appeal to the SEC. The sanctions were based on findings that Cannon failed to respond to NASD requests for information. **(NASD Case #C8A980054)**

Michael Kyle Faulkner (CRD #1182049, Registered Principal, Springfield, Missouri) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Faulkner consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information relating to his conduct while at a member firm. **(NASD Case #C04000012)**

Philip Ralph Friedenn, Jr. (CRD #2403375, Registered Representative, Ft. Lauderdale,

Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Friedenn consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to obtain prior written approval from his member firms. **(NASD Case #C07000010)**

Laronda Joyce Fuller n.k.a. Laronda Franklin (CRD #2794996, Registered Representative, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fuller consented to the described sanction and to the entry of findings that she changed the addresses for accounts belonging to public customers and processed unauthorized withdrawal requests from these accounts that involved the unauthorized liquidation of securities. Fuller directed that checks totaling \$64,774.39 drawn against the accounts be sent to the addresses she had previously designated for these accounts where they were received, endorsed by a third party, and deposited into a bank account in which she had a beneficial interest. The findings also stated that Fuller failed to respond to an NASD request to provide testimony. **(NASD Case #C06000003)**

Larry Lynn Graham (CRD #1965936, Registered Principal, Littleton, Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for three weeks. Without admitting or denying the

allegations, Graham consented to the described sanctions and to the entry of findings that he participated in a course of conduct that constituted the mishandling of a customer's funds. **(NASD Case #C3A990073)**

Joel Marc Grant (CRD #1518004, Registered Principal, Roslyn, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Grant consented to the described sanction and to the entry of findings that he made baseless and improper price predictions as to speculative securities to public customers, failed to execute customer sell orders, and placed unauthorized trades. The findings also stated that Grant required that customers purchase aftermarket shares as a condition of purchasing initial public offering (IPO) units. **(NASD Case #CAF980031)**

Eliezer Gurfel (CRD #1409216, Registered Representative, Washington, D.C.) was censured and barred from association with any NASD member in any capacity. The SEC affirmed the findings of the NAC. The decision became final following a denial of Gurfel's appeal petition by the U.S. Court of Appeals for the District of Columbia. The sanctions were based on findings that Gurfel forged, or caused to be forged, the signature of the firm's president on commission checks totaling \$9,625.64, and converted the proceeds to his own use. **(NASD Case #C9B950010)**

George Earl Harper (CRD #1632256, Registered Representative, Dayton, Nevada) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and

suspended from association with any NASD member in any capacity for six months. The fine is due and payable prior to reassociation with a member firm. Without admitting or denying the allegations, Harper consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior notice to, or authorization from, his member firm. **(NASD Case #C01000005)**

Horace Richard Hillberry (CRD #1136754, Registered Representative, Clearwater, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$50,000 and barred from association with any NASD member in any capacity. Payment of the fine shall be a prerequisite for reconsideration of any application for reentry into the securities industry. Without admitting or denying the allegations, Hillberry consented to the described sanctions and to the entry of findings that he misrepresented to public customers that a new variable life insurance policy could be acquired for little or no additional cash payments by using cash values and/or future dividends from existing life insurance policies when, in fact, the customers were required to make payments to keep the insurance in force. The findings also stated that Hillberry sold variable life insurance to customers for whom the purchases were not suitable. In addition, Hillberry misrepresented that variable life insurance was a pension plan and failed to disclose the life insurance elements of the product. **(NASD Case #CAF000004)**

Cindy Rae Kolb (CRD #1433552, Registered Principal, San Marcos, Texas) was fined \$10,000 and suspended from association

with any NASD member in any capacity for 30 business days for exercising discretion without her firm's approval. Kolb was also barred from association with any NASD member in any capacity and ordered to pay \$71,068.67, plus pre-judgment interest, in restitution to public customers for fraudulent conduct, conversion of customer funds, and excessive trading. The fine is due and payable prior to application for reentry into the securities industry. The sanctions are based on findings that Kolb effected unauthorized transfers and disbursements by forging, or causing the forgery of, signatures on letters of authorization and submitting requisitions to her member firm. Kolb, thereby, converted \$486,772.50 received from public customers to her personal benefit and the benefit of a third party. The findings also stated that Kolb engaged in excessive trading in the accounts of public customers and exercised discretion in customers' accounts without the prior authorization of the customers and the acceptance of the accounts as discretionary by her member firm. **(NASD Case #C05970037)**

Ansula Pet Hwa Liu (CRD #1373612, Registered Representative, Minneapolis, Minnesota) was fined \$50,000 and barred from association with any NASD member in any capacity. The fine was reduced from \$100,000 if Liu pays \$50,000, plus interest, in restitution to public customers within six months of this decision. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Liu engaged in private securities transactions without providing prior written notification to her member firm and failed to respond to NASD requests for information. **(NASD Case #C04970050)**

Troy Wayne Long (CRD #2708824, Registered Representative, Antelope, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Long failed to respond to NASD requests for information relating to his termination from a member firm. **(NASD Case #C01990017)**

Herman Paul Manalili (CRD #856842, Registered Representative, Hilo, Hawaii) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was suspended from association with any NASD member in any capacity for 120 days. Without admitting or denying the allegations, Manalili consented to the described sanction and to the entry of findings that, prior to his association with member firms, he opened a brokerage account with another member firm, and continued to engage in securities trades in that account during the course of his association with the firms. Furthermore, the findings stated that Manalili failed to disclose the existence of the account to his member firms and failed to inform the executing firm that he had become an associated person. Manalili also failed to disclose his involvement in private securities transactions to his member firms. **(NASD Case #C01000004)**

John Vincent McEwan (CRD #2238252, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000, suspended from association with any NASD member in any capacity for 13 months, and required to pay \$5,784.02 in restitution to a public customer within 60 days of acceptance of this AWC by the

NASD. McEwan was also required to requalify by exam in all capacities within 90 days from the date the AWC was issued by the NASD. If McEwan fails to requalify within that time, he will be suspended from acting in any capacity requiring registration until such exams are successfully completed. Payment of the fine and satisfactory proof of payment of restitution, plus interest, shall be prerequisites for consideration of any application for reentry into the securities industry. Without admitting or denying the allegations, McEwan consented to the described sanctions and to the entry of findings that he effected securities transactions in a public customer's account without the customer's prior knowledge or consent. The findings also stated that McEwan completed and signed a new account form for the customer when he knew that the customer's residence address on the new account form was incorrect. **(NASD Case #C10000024)**

Phillip John Milligan (CRD #1874103, Registered Principal, Guttenberg, New Jersey) was barred from association with any NASD member in any capacity. The decision became final following Milligan's dismissed appeal to the NAC. The sanction was based on findings that Milligan failed to respond to NASD requests to appear for on-the-record testimony. **(NASD Case #C10990058)**

Marc Schuman Nemeth (CRD #2573956, Registered Representative, New York, New York) submitted an Offer of Settlement pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 90 business days. The fine is payable in full 30 days after the conclusion of the suspension. Without

admitting or denying the allegations, Nemeth consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C10990077)**

Mark Edward Nichols (CRD #1778988, Registered Principal, Naples, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Nichols consented to the described sanction and to the entry of findings that he sold \$1,491,888 in promissory notes to investors without providing prior written notification to, or receiving prior written approval from, his member firm. **(NASD Case #C07000009)**

Michael William O'Donnell (CRD #1254156, Registered Principal, Northridge, California) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, O'Donnell consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firms describing the proposed transactions and his proposed role therein. The findings also stated that O'Donnell made material misrepresentations and/or omissions to investors regarding the risk and registration status of an investment company. O'Donnell also misrepresented to public customers his qualifications, his indebtedness, his placement of funds in an escrow account, and his purchase of life insurance policies naming investors as beneficiaries to

protect their investments in case of his death. In addition, O'Donnell made unrealistic projections regarding expected profitability. **(NASD Case #C02990047)**

Remo P. Rei (CRD #2348000, Registered Representative, Cugnasco, Italy) was barred from association with any NASD member in any capacity. The sanction was based on findings that Rei failed to respond to NASD requests for information relating to complaints concerning the misappropriation of customer funds. **(NASD Case #C10990155)**

Daniel Reyes (CRD #2557051, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Reyes failed to respond to NASD requests for information regarding his termination from a member firm. **(NASD Case #C10990157)**

Dennis Frank Riggi (CRD #1052272, Registered Principal, Los Angeles, California) was fined \$1,200, suspended from association with any NASD member in any capacity for 30 days, and barred from association with any NASD member in any principal capacity. The sanctions were based on findings that Riggi, while president and sole owner of a member firm, distributed a private placement memorandum that misrepresented the amount of commissions his firm would receive from the sale of securities. **(NASD Case #C02990017)**

Bela Standard Rossmann (CRD #2296135, Registered Principal, Chalfont, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD

member in any capacity and required to pay \$50,000, plus interest, in restitution to a public customer. The restitution is due and payable prior to any application requesting relief from statutory disqualification. Without admitting or denying the allegations, Rossmann consented to the described sanctions and to the entry of findings that he received \$100,000 from a public customer to conduct securities transactions, failed to conduct the transactions, and, instead, converted the funds to his own use and benefit without the customer's knowledge or consent. The findings also stated that Rossmann failed to respond to NASD requests for information and documentation regarding the customer's complaint of conversion and other violative conduct. **(NASD Case #C9A000008)**

Michael Humphrey Salandy (CRD #1686500, Registered Representative, Stone Mountain, Georgia) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Salandy consented to the described sanction and to the entry of findings that he entered fictitious trades into a public customer's account and journaled trades between the firm's proprietary account and the customer's account via the firm's computer system, thereby creating \$216,002.24 in false and improper profits in the account of which Salandy personally received at least \$9,100 from the customer. **(NASD Case #C07000011)**

Jean Guiteaud Severe (CRD #2688594, Associated Person, Orange, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and

suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Severe consented to the described sanctions and to the entry of findings that he failed to disclose a *nolo contendere* plea to non-securities related felony charges involving the wrongful taking of property on his Form U-4. **(NASD Case #C10990147)**

Andrew Frank Soldo, Jr. (CRD #2448880, Registered Representative, East Islip, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Soldo consented to the described sanction and to the entry of findings that he made material misrepresentations, omitted to disclose material facts, and predicted the future prices of speculative securities in connection with the offer and sale of securities. The findings also stated that Soldo effected transactions in customer accounts without the customer's prior authorization. Soldo then represented to the customer that the failure to pay for the unauthorized purchase would cause the sale of a profitable position in his account and the entry of a judgment that would affect his credit rating. **(NASD Case #C3A990016)**

David Ray Steele (CRD #1126752, Registered Representative, El Cajon, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Steele consented to the described

sanctions and to the entry of findings that he executed transactions in the securities account of a public customer and exercised discretionary power in the account without prior written authorization from the customer or written acceptance by his member firm of the account as discretionary. **(NASD Case #C02000002)**

Christopher Duncan Strachan (CRD #2660920, Registered Principal, Fruit Heights, Utah) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Strachan consented to the described sanction and to the entry of findings that he engaged in business activities outside the scope of his employment with a member firm without providing the firm prompt written notice of his activities. The findings also stated that Strachan issued a promissory note to reimburse public customers in order to settle their complaint away from his member firm. In addition, Strachan failed to respond completely to NASD requests for information. **(NASD Case #C3A000009)**

Kenneth Allen Thompson (CRD #1759914, Registered Principal, Morton, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Thompson failed to respond to NASD requests for information. **(NASD Case #C9A990042)**

Charles Edward Warner (CRD #459110, Registered Representative, Nashville, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD

member in any capacity. Without admitting or denying the allegations, Warner consented to the described sanction and to the entry of findings that he received approximately \$25,500 from public customers for investing in variable annuity contracts, failed to make the investments on the customers' behalf, and, instead, converted the funds to his own use and benefit. The findings also stated that Warner failed to respond to NASD requests for information. **(NASD Case #C05000004)**

Gail S. Yamauchi (CRD #2838913, Registered Representative, Los Angeles, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Yamauchi failed to respond to NASD requests for information regarding possible misappropriation of customer funds. **(NASD Case #C02990058)**

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.

Thomas Patrick Gorman (CRD #3144585, Registered Representative, Hampden, Massachusetts) was named as a respondent in an NASD complaint alleging that he received cash and checks totaling \$30,626.81 from a public customer for investment in

mutual fund accounts, failed to deposit the funds in the accounts, and converted the funds for his own use and benefit. The complaint also alleges that Gorman failed to respond to NASD requests for information. **(NASD Case #C11000003)**

Millennium Securities Corp. (CRD #31695, New York, New York), Richard Allen Sitomer (CRD #1995999, Registered Principal, New York, New York) and Todd Michael Rome (CRD #2082803, Registered Principal, New York, New York) were named as respondents in an NASD complaint alleging that they bid for, purchased, or induced others to purchase common stocks and warrants while the IPO was continuing or while the firm was engaged in a secondary distribution of the securities. The complaint also alleges that the firm, Sitomer, and Rome committed fraud by failing to disclose to public customers material facts relating to the distribution of the securities. **(NASD Case #CAF000005)**

Bertram Howard Rosenblatt (CRD #1275489, Registered Principal, Syosset, New York) was named as a respondent in an NASD complaint alleging that he fabricated, and forged the signature of a public customer on, a letter of authorization that purportedly directed Rosenblatt to transfer shares of stock from the customer's account to the joint account of other customers and forged the customer's signature on the letter. The complaint also alleges that Rosenblatt transferred shares of stock from the customer's account to the joint account of other public customers without the knowledge, authorization, or consent of the customer. In addition, the complaint alleges that Rosenblatt failed to respond to NASD requests for

information, documentation, and to appear for an on-the-record interview. **(NASD Case #C10000027)**

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.

DPP Securities, Inc., Austin, Texas (March 7, 2000)

MZB Select Management, L.L.C., New York, New York (March 7, 2000)

RBG Investments, Inc., Chicago, Illinois (March 7, 2000)

Talented Tenth Investments, Inc., New York, New York (March 16, 2000)

TAP Capital, Inc., Plano, Texas (March 7, 2000)

NASD Regulation Issues Complaint Against Former CEO And 11 Brokers Of State Capital Markets Corporation

NASD Regulation announced that it has issued a complaint charging the former Chief Executive Officer and 11 former brokers of now defunct State Capital Markets Corporation with fraudulent sales practices, supervision deficiencies, and the failure to cooperate with an NASD Regulation investigation.

The complaint charges State Capital's former Chairman and Chief Executive Officer, John Doukas, with several violations committed while at State Capital. Specifically, Doukas is alleged to have put in place or enforced a "policy" that prevented some customers from selling specific securities from their accounts. When Doukas imposed and/or enforced a "no net sell" policy at the firm, brokers were not allowed to sell certain securities unless another customer could be found to buy them. The complaint further alleges that as a result of this policy, customers in certain instances had their sales delayed or could not sell securities from their accounts.

Doukas violated NASD rules by permitting Felix Sater, a statutorily disqualified individual, to play a significant role in the firm's securities-related activities. Doukas allowed Sater to conduct meetings with the firm's brokers, hold sales contests, and award cash to brokers who sold the firm's securities despite the fact that Sater was disqualified from the securities industry as a result of a prior felony conviction.

NASD Regulation further alleges that 11 brokers engaged in improper sales practices in their sale of low-priced, highly speculative securities to retail customers, including:

- trading without customer authorization;
- failing to execute customer orders;
- failing to execute orders promptly; and
- making improper price and performance predictions.

The brokers named in the complaint are: Radcliffe Bent; George Christodoulou; Damien Douglas; Paul Guercio; Stephen Guercio; Robert Guidici Pietro, alias Robert Peters; Adam Kaplan; Anthony Mundy; Andrew Ruscio; John Sciascia; and Donald Sedy. In the complaint, NASD Regulation requests that these respondents make restitution to defrauded investors. According to the complaint, at least 40 investors were victimized through the brokers' violative practices.

Three of the individuals named are also charged with providing false or inaccurate information to the NASD Regulation staff about a number of matters including Sater's presence and involvement at the firm. Previously, six individuals associated with State Capital agreed to be suspended or barred from the securities industry as a result of the investigation of State Capital by NASD Regulation's New York District Office.

The alleged violative conduct occurred principally in three securities that the firm had underwritten: U.S. Bridge of N.Y., Inc.; Cable & Co. Worldwide, Inc.; and Fun Tyme Concepts, Inc. NASD Regulation does not allege any wrongdoing on the part of the issuers.

NASD Fines Prudential Securities \$100,000 For Seeking To Undermine Competition For IPO Underwriting Services

NASD Regulation announced that it has censured and fined Prudential Securities, Inc. \$100,000 for improper conduct in connection with its potentially anti-competitive efforts to become lead manager in the underwriting of an IPO. The violative conduct took place while

Prudential was competing with another firm for the lead manager position. In settling this matter, Prudential neither admitted nor denied NASD Regulation's findings.

In 1996, Prudential was competing with other firms to lead manage a \$59 million IPO. After the issuer selected Prudential and a smaller regional investment firm as co-managers, it offered the lead position to Prudential on condition that the offering be priced with a six percent underwriting spread. The underwriting spread is the fee that a firm charges a company to bring its stock to market.

Prudential refused to participate in the offering at a spread of less than seven percent, while the smaller regional firm made a lower competitive bid of six percent. Because the issuer repeatedly rejected Prudential's higher fee, Prudential's investment bankers called their counterparts at the competing firm and asked if they would join with them to persuade the issuer to accept the higher seven percent spread with Prudential as lead manager. Prudential did this to dissuade the issuer from accepting the competitor firm's lower-priced bid for lead manager services. Ultimately, however, the competing firm refused to do what Prudential had asked, and it eventually was chosen as the lead manager with a six percent spread.

In the underwriting business, the lead manager generally earns the largest portion of the underwriting spread and its position, as lead, is prominently displayed on the prospectus as the investment banking firm responsible for the transaction. In this instance, the total fees paid by the issuer at a seven percent underwriting spread would have been over \$4 million dollars, \$600,000 more than the

fees that were actually generated from the six percent spread.

While Prudential's efforts were unsuccessful, its conduct, with its potentially anti-competitive effect, violated the NASD's rule requiring all members to adhere to high standards of commercial honor and just and equitable principles of trade.

This case was brought by NASD Regulation's Enforcement Department with assistance from the Corporate Financing Department in Washington, D.C.

NASD Regulation Charges Global Equities Group, Inc. And Five Employees With Fraud And Stock Manipulation

NASD Regulation announced that it has filed a complaint against Global Equities Group, Inc. and five of its brokers, charging stock fraud and manipulation and for using abusive, high-pressure sales tactics to sell investors low-priced, speculative securities that were part of an IPO. After the investigation began, Global, located in New York, New York, closed in January 1998.

Named in the complaint, and charged with a variety of sales practice and supervisory violations, are the firm's majority owner, Aleksandr Shvarts; President, Michael Christ; Vice-President, Thomas McDermott; and two registered persons, Damiano Coraci; and Eric "Igor" Kuvykin.

Shvarts, Coraci, and Kuvykin are charged with fraud in connection with the July 1996 underwriting of CluckCorp International, Inc. NASD Regulation's investigation uncovered the use of illegal boiler room sales tactics, including high pressure sales tactics. NASD Regulation charged that Global's

brokers, several of whom were not registered with the NASD, sold securities offered in the IPO, made material misrepresentations including making baseless price predictions; omitted material information; and guaranteed future stock performance.

In addition, NASD Regulation charged that before the effective date of the CluckCorp IPO, Shvarts, Coraci, and Kuvykin offered, to prospective employees, undisclosed compensation in the form of CluckCorp warrants that were offered in the IPO. The complaint alleges that the compensation was offered as an incentive to join Global and solicit indications of interest in the IPO. The complaint alleges that Shvarts, Coraci, and Kuvykin told the prospective employees to place the warrants in accounts that the employees controlled or that could be a source of client referrals.

NASD Regulation's investigation also uncovered instances in which Shvarts, Coraci, and Kuvykin funneled portions of the IPO allocation to accounts restricted under NASD's free-riding and withholding rule. Shvarts generated windfall profits for himself by directing shares to restricted accounts and for others, through accounts he controlled.

Finally, the complaint charges Christ and McDermott inadequately supervised the firm and its employees. In addition, Coraci and Kuvykin acted as principals while not registered in that capacity and that Coraci allowed unregistered individuals to act as brokers.

Separately, Shvarts and Kuvykin have both plead guilty to conspiracy to commit securities fraud, wire fraud, and mail fraud in a case brought by the United States Attorney's Office for the Eastern

District of New York involving the CluckCorp IPO, among other matters. The prosecutors handling that case requested and were provided with information obtained in the pre-existing NASD Regulation investigation. The federal prosecution includes allegations of money-laundering which are outside the jurisdiction of NASD Regulation.

The complaint does not allege any wrongdoing on the part of CluckCorp International, Inc.

The investigation leading up to the filing of this complaint was conducted by NASD Regulation's District Office, in New York City.

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