

Disciplinary Actions

Disciplinary Actions Reported For March

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, March 20, 2000. The information relating to matters contained in this *Notice* is current as of the end of February 23, 2000.

communications with the NASD. The findings also stated that the firm, by and through Banks, conducted its securities business while failing to maintain the required minimum net capital, failing to keep an accurate general ledger, and making a series of misleading oral and written statements to the NASD regarding alleged violations of NASD rules and federal securities laws. In addition, the firm permitted an unregistered person to sell the firm's common stock through a private placement offering. **(NASD Case #C07990066)**

Firm Expelled, Individual Sanctioned

J. Banks Company (CRD #42570, Boca Raton, Florida) and Jeffrey B. Banks a.k.a. Jeffrey B. Nuss (CRD #2133170, Registered Principal, Highland Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were fined \$125,000, jointly and severally, and the firm was expelled from the NASD. Banks was barred from association with any NASD member in any capacity with the right to reapply after two years and permanently barred from association with any NASD member in a principal or supervisory capacity. Payment of the fine shall be a prerequisite for consideration of any application for reentry by either the firm or Banks. Without admitting or denying the allegations, the firm and Banks consented to the described sanctions and to the entry of findings that the firm, by and through Banks, failed to have a qualified financial and operations principal (FINOP) properly associated with the firm and improperly misrepresented the identity of its alleged FINOP in

Firm Fined, Individuals Sanctioned

D.L. Cromwell Investments, Inc. (CRD #37730, Boca Raton, Florida), Lloyd Sylvester Martin Beirne (CRD #1982417, Registered Principal, Boca Raton, Florida) and Matthew Greenwald (CRD #229262, Registered Principal, Boca Raton, Florida). Beirne was fined \$10,000, jointly and severally, with the firm and suspended from association with any NASD member in any supervisory capacity for 15 business days. Greenwald was fined \$10,000, jointly and severally, with the firm and suspended from association with any NASD member in any supervisory capacity for five business days. The fines for Beirne and Greenwald will not be in addition to the fine assessed against the firm. The firm was censured, fined \$37,585.94 (which includes disgorgement of \$12,585.94 in commissions), and ordered to retain an independent consulting firm for one year to review the firm's compliance and written supervisory procedures to determine their adequacy and consistency with applicable laws and regulations. The independent

consultant will make written recommendations which the firm will promptly adopt and implement or suggest alternative procedures which the consultant may approve. At least six months, but no longer than a year from the date of the initial report, the consultant will conduct a follow-up review and prepare a written report addressing the firm's compliance and written supervisory procedures. The sanctions were based on findings that Beirne and Greenwald failed to adequately supervise a registered representative so as to detect the unsuitable recommendations the representative made to public customers. The findings also stated that the firm failed to establish and maintain a supervisory system of its registered representatives that was reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. **(NASD Case #C07990037)**

Firm And Individual Fined

Aragon Financial Services, Inc. (CRD #16023, Brea, California) and **Douglas Lyman Lish (CRD #310660, Registered Principal, Anaheim, California)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm and Lish were censured and fined \$25,000, jointly and severally. Without admitting or denying the allegations, the firm and Lish consented to the described sanctions and to the entry of findings that they failed to report customer complaints received by the firm and securities-related arbitrations to the NASD in which the firm, and/or persons associated with the firm, were named as respondents and which were disposed of by award or settlement in dollar amounts exceeding the thresholds set by the NASD. **(NASD Case #C02990072)**

Firms Fined

Dougherty Summit Securities LLC n.k.a. Dougherty & Company, LLC (CRD #7477, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$23,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it commenced best efforts offerings of shares of common stock using private placement memoranda which failed to include statements that the firm, and/or persons associated with the firm, would be purchasing a portion of the offerings. The findings also stated that the firm failed to file, or to file in a timely manner, appropriate documents with the MSRB in connection with municipal offerings. **(NASD Case #C04000006)**

Frederick & Company, Inc. (CRD #333, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$14,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to correctly identify aggregated transaction reports in Nasdaq National Market[®] (NNM) and Nasdaq SmallCapSM Market securities, failed to prepare accurate last sale reports, and failed to properly report Consolidated Quotation System transactions through the Automated Confirmation Transaction ServiceSM (ACTSM). The findings also stated that the firm improperly disclosed on confirmations that the firm had acted as a Market Maker in principal transactions with customers when, in fact, the firm was not a registered Market Maker

and failed to disclose to customers a markup/markdown or similar remuneration. In addition, the firm sold shares of initial public offerings (IPO) to investment partnerships and failed to have current information on file in accordance with the Free-Riding and Withholding Interpretation of the NASD Board of Governors. In connection with private placements, the firm received funds from public customers and deposited the funds into a firm-controlled bank account and failed to establish a reserve bank account and compute a reserve formula requirement. Moreover, the firm failed to establish, maintain, and enforce written supervisory procedures governing its trading and market-making activities, its adherence to free-riding and withholding rules, and its handling of customer funds in private placement offerings. **(NASD Case #C8A000003)**

Keane Securities Co., Inc. (CRD #8452, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent (AWC) pursuant to which the firm was censured, fined \$10,000, and required to revise the firm's written supervisory procedures relating to the Securities and Exchange Commission (SEC) and NASD firm quote rules 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 was presented with orders at its published bid or offer in an amount up to its published quotation size, failed to execute the orders, and therefore failed 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 SEC and NASD firm quote rules. **(NASD Case #CMS990173)**

Maxcor Financial, Inc. (CRD #19801, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$41,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, through its Euro Brokers division, it created inaccurate books and records through the use of an inactive customer account as a suspense account and failed to provide timely notice to the NASD of the inaccurate books and records. The findings also stated that Euro Brokers failed to establish written supervisory procedures that designated the principals in the operations department and set forth their responsibilities. **(NASD Case #C10000007)**

Miller & Schroeder Financial, Inc. (CRD #37526, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$14,060. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to conduct a securities business and to act in a registered capacity when the individual's registration had lapsed for non-compliance with the Regulatory Element of the Continuing Education requirement. **(NASD Case #C04000001)**

Schonfeld Securities, L.L.C. (CRD #23304, Jericho, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to

which the firm was censured, fined \$10,000, and required to submit revised written supervisory procedures concerning transaction reporting 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 incorrectly designated as "SLD" to ACT transactions in NNM and listed securities. 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 transaction reporting. **(NASD Case #CMS000005)**

Standard New York Securities, Inc. (CRD #35560, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, and required to submit revised written supervisory procedures concerning transaction reporting 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 transmit transactions through ACT in NNM, Nasdaq SmallCap, and OTC equity securities in a timely manner, failed to designate such transactions as late to ACT, and failed to include the correct time of execution. 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 transaction reporting. **(NASD Case #CMS000004)**

The Third Market Corporation (CRD #30181, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$19,500, and required to pay \$223.76 plus interest in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it bought shares of securities for its market-making account while holding unexecuted customer limit orders and 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 report transactions to ACT correctly and to maintain the time of entry of an order on a brokerage order memorandum. In addition, the firm failed to maintain a record showing the time the firm routed limit orders to the New York Stock Exchange for display. The firm also failed to execute a customer limit order when the inside market was better than the customer's limit order price and sold shares of securities to public customers and failed to use reasonable diligence to ascertain the best inter-dealer markets so that the resultant prices were as favorable to the customers as possible under prevailing market conditions. Moreover, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations regarding trade reporting, ACT reporting, limit order protection, registration, books and records, locked and crossed markets, the Order Handling Rules, anti-competitive practices, and best execution. **(NASD Case #CMS000006)**

Whale Securities Co., L.P. (CRD #13516, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$27,000, and required to revise the firm's written supervisory procedures relating to locked and crossed markets, the Small Order Execution SystemSM (SOESSM), registration, limit orders, best execution, and books and records. The revised procedures must 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 immediately display customer limit orders in Nasdaq[®] securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a *de minimus* change in relation to the size of the firm's bid or offer in each security. The findings also stated that the firm failed to provide written notification to its customers that it was a Market Maker or, where it acted as principal, that the price on the customer confirmation was an average price and instead disclosed an incorrect reported trade price. The firm also reported transactions incorrectly to ACT and failed to correctly identify aggregated transaction reports in NNM and Nasdaq SmallCap securities. Moreover, the firm failed to maintain or enter information accurately on memoranda of brokerage orders or to maintain a customer transaction confirmation. In addition, 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 locked and crossed markets, SOES, registration, limit orders, best execution, and books and records. **(NASD Case #CMS990175)**

William Scott & Co., LLC (CRD #14979, Union, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$32,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report customer complaints received by the firm to the NASD and permitted a registered representative to conduct a securities business while his securities industry registrations were inactive as a result of his failing to satisfy the Regulatory Element of the Continuing Education requirement. The findings also stated that the firm failed to have all of its covered registered representatives participate in the Firm Element of the Continuing Education program and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable rules of the NASD concerning the Regulatory and Firm Elements of Continuing Education. **(NASD Case #C10000004)**

Individuals Barred Or Suspended

John Leslie Anderson (CRD #2192152, Registered Principal, Madera, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$9,076 (which includes disgorgement of \$1,576 in commissions), suspended from association with any NASD member in any capacity for 90 days, and ordered to requalify as a registered

options principal before associating with any NASD member in that capacity. Anderson was also ordered to pay restitution and interest totaling \$4,261.01 to a public customer. Without admitting or denying the allegations, Anderson consented to the described sanctions and to the entry of findings that he recommended and engaged in the purchase and sale of numerous option spread contracts in the account of a public customer and did not have reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customer on the basis of the customer's financial situation, needs, and ability to evaluate the risks of such trading given the customer's knowledge and experience in financial matters and/or securities investments. **(NASD Case #C02990056)**

Joshua David Arnold (CRD #828189, Registered Principal, Edina, Minnesota) 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 a principal capacity for 30 days. Arnold also agreed to refrain for one year from accepting or maintaining employment in a sales capacity with any NASD member unless that firm has formulated special supervisory procedures to oversee and monitor his sales practices with customers. The firm must submit the special supervisory procedures to the NASD prior to, or no later than, 30 days after Arnold's association with the firm. Without admitting or denying the allegations, Arnold consented to the described sanctions and to the entry of findings that he recommended numerous purchases and sales of securities to public customers without having a reasonable basis for believing that

such recommendations were suitable in view of their investment objectives, financial resources, frequency of transactions, and type of securities. **(NASD Case #C04000003)**

Aroon K. Benny (CRD #2927597, Associated Person, Woodside, New York) was barred from association with any NASD member in any capacity. The sanction is based on findings that Benny failed to respond to NASD requests for information regarding possible misappropriation of funds. **(NASD Case #C10990133)**

Howard Charles Berkowitz (CRD #1293296, Registered Principal, Highland Mills, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$20,000, suspended from association with any NASD member in any capacity for 90 days, required to disgorge \$3,731 in commissions to the estate of a public customer, and required to requalify as a general securities representative within 90 days from the date this AWC is issued by the NASD. If Berkowitz fails to requalify within the mandated period, he will be suspended from association with any member firm in that capacity until such exam is successfully completed. Without admitting or denying the allegations, Berkowitz consented to the described sanctions and to the entry of findings that he exercised discretion in the account of a public customer without written authority and without the knowledge and approval of his member firm. The findings also stated that Berkowitz failed to make reasonable efforts to obtain current information concerning the customer's investment objectives and financial, tax, and health status before making recommendations pursuant to his verbal discretionary authority. **(NASD Case #C10000020)**

Gregory Dean Boynton (CRD #1983783, Registered Representative, Walnut Creek, California) 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 one year. Without admitting or denying the allegations, Boynton consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and documents. **(NASD Case #C01990019)**

Brent Paul Calderone (CRD #2661084, Registered Representative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction is based on findings that Calderone failed to respond to NASD requests for information regarding possible unauthorized transactions in a customer account. **(NASD Case #C10990154)**

Daniel Alan Camm (CRD #2568664, Registered Representative, Tampa, Florida) 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 30 days. The fine is due and payable prior to reassociation with a member firm following the suspension or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Camm consented to the described sanctions and to the entry of findings that he sold a \$13,500 promissory note to a public customer without obtaining prior written approval from his firm. **(NASD Case #C07000007)**

Steven Berti Carosso (CRD #1476354, Registered Principal, Hackensack, New Jersey)

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 one year. Without admitting or denying the allegations, Carosso consented to the described sanctions and to the entry of findings that he submitted a request for payment form to his member firm that misrepresented the nature of the expense with a fictitious invoice for reimbursement of \$6,600 in alleged expenses. **(NASD Case #C10000025)**

Paul E. Colontino (CRD #2407870, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Colontino used an impostor to take the Series 7 exam on his behalf. The findings also stated that Colontino failed to respond to NASD requests for information and for on-the-record interviews. **(NASD Case #C10990059)**

Lance Reed Dalton (CRD #1944499, Registered Representative, Isle of Palms, South Carolina) was barred from association with any NASD member in any capacity. The sanction was based on findings that Dalton engaged in outside business activities and private transactions and failed to provide prior notification to, or to request approval from, his member firms. The findings also stated that Dalton failed to respond to NASD requests for an on-the-record interview. **(NASD Case #C07990044)**

John Thomas Davis (CRD #62264, Registered Representative, East Pittsburgh, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was

based on findings that Davis received checks totaling \$40,188 from a public customer for deposit in the customer's account at his member firm, failed to deposit the checks, made the checks payable to himself, and converted the funds to his own use. The findings also stated that Davis failed to respond to NASD requests for information. **(NASD Case #C9A990052)**

Michael Anthony Dietze (CRD #2692450, Registered Representative, Iselin, New Jersey) 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, Dietze consented to the described sanction and to the entry of findings that he failed to amend his Form U-4 to disclose that he was the subject of an investigation by the New York County District Attorney's Office. **(NASD Case #C9B000001)**

Charles John Distefano (CRD #2198727, Registered Principal, Medford, New York) was fined \$25,000, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by exam for unauthorized trading and failure to execute a customer order. Distefano was also barred from membership with any NASD member in any capacity for nondisclosures, misrepresentation, and failure to respond. In addition, Distefano was required to pay \$146,983.13, plus pre-judgment interest, in restitution to public customers. The fine is due and payable prior to reentry in the securities industry. The sanctions were based on findings that Distefano made materially false and misleading statements and failed to disclose material facts in

connection with the sale of securities to public customers including the risks involved with investments and the financial remuneration he would receive from sales of securities. The findings also stated that Distefano failed to execute a customer's order to sell securities and effected unauthorized transactions in the accounts of public customers. In addition, Distefano failed to respond to NASD requests to give testimony and to produce documents. **(NASD Case #C3A990008)**

Herman Epstein (CRD #201696, Registered Principal, Franklin Lakes, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Epstein failed to respond to an NASD request for information and to appear for testimony in connection with an investigation. **(NASD Case #CAF980013)**

Nathaniel Gaddy (CRD #1069005, Registered Representative, Mount Laurel, New Jersey) 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, Gaddy consented to the described sanction and to the entry of findings that he caused unauthorized withdrawals totaling \$75,600 from the variable annuity contract of a public customer and converted the proceeds to his own use and benefit. The findings also stated that Gaddy failed to respond to NASD requests for information and documents. **(NASD Case #C9A000003)**

Harry Gliksman (CRD #223138, Registered Principal, Los Angeles, California) was

censured, suspended from association with any NASD member in any capacity for six months, and required to requalify as a general securities representative. The SEC sustained the sanctions following appeal of a NAC decision. The sanctions were based on findings that Gliksman made unsuitable recommendations to a public customer.

Gliksman has appealed this action to the U.S. Court of Appeals for the Ninth Circuit and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C02960039)**

James Joseph Harrington, Jr. (CRD #1592332, Registered Representative, Coral Springs, 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 10 business days and required to pay \$9,000 in restitution to a public customer. Without admitting or denying the allegations, Harrington consented to the described sanctions and to the entry of findings that he executed discretion in the account of a public customer without obtaining prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm. The findings also stated that Harrington made baseless price predictions and/or predictions of returns in recommendations to public customers. In addition, Harrington negligently made statements of fact which were untrue or omitted to state facts necessary to make the statements not misleading, in light of the circumstances in which they were made. **(NASD Case #C04000005)**

Daniel Scott Hernandez (CRD #2673877, Registered Representative, Hicksville, 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, Hernandez consented to the described sanction and to the entry of findings that he made a cold call to a public customer, misrepresenting his background and experience and the number of branches his firm had across the country. The findings also stated that Hernandez failed to appear for an NASD on-the-record interview regarding the cold call to the customer. **(NASD Case #C10990198)**

Steven Eugene Herron (CRD #1860442, Registered Representative, Largo, 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, Herron consented to the described sanction and to the entry of findings that he effected sales of promissory notes to public customers, for which he received \$23,124.35 in commissions, without obtaining prior written approval from his member firm. **(NASD Case #C07000006)**

Danforth Earl Holley (CRD #2037314, Registered Representative, Grosse Pointe, Michigan) 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, Holley consented to the described sanction and to the entry of findings that he opened a checking account and obtained a

credit card in the name of a public customer. The findings also stated that Holley sold securities in the customer's account and spent the proceeds totaling approximately \$363,000 for his own use and benefit. **(NASD Case #C8A000009)**

Daniel Hong (CRD #2497385, Registered Principal, Chicago, Illinois) 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 one year. The fine is due and payable prior to reassociation with a member firm following the suspension or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Hong consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for documents and information in a timely manner. **(NASD Case #C8A990079)**

Michael Earl Hughes (CRD #1099917, Registered Principal, Highland Park, New Jersey) was fined \$5,000, suspended from association with any NASD member in any capacity for two years, and ordered to pay \$783.24 in restitution to his member firm. The fine is due and payable upon reentry into the securities industry. The sanctions were based on findings that Hughes accessed his account records for his firm's "advantage" credit line, increased his line of credit by \$800, and used the increased line of credit for transactions and purchases totaling \$783.24, without the firm's consent or authority. **(NASD Case #C9B990004)**

Joseph Charles Hutchison (CRD #2031542, Registered Representative, Orion, Michigan)

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, Hutchison consented to the described sanction and to the entry of findings that he participated in private securities transactions for compensation and failed to give written notice of his intention to engage in such activities to his member firm and failed to receive written approval from his firm prior to engaging in such activities. **(NASD Case #C8A000007)**

Henry Irvin Judy, Jr. (CRD #2348528, Registered Representative, Hilton Head, South Carolina) was barred from association with any NASD member in any capacity. The sanction was based on findings that Judy converted the funds of a public customer by depositing the customer's check into his business checking account. The findings also stated that Judy engaged in improper communications with the public by distributing sales materials that contained false and misleading information. Judy also failed to respond to NASD requests for information. **(NASD Case #C07990024)**

Steven Nelson Long (CRD #2948957, Registered Representative, Murray, Utah) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 business days. The fine is due upon reentry into the securities industry. Without admitting or denying the allegations, Long consented to the described sanctions and to the entry of findings that he effected transactions in a customer account

without the customer's authorization. **(NASD Case #C3A000003)**

Ricky Allen Lubinsky (CRD #1082031, Registered Principal, Orlando, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Lubinsky engaged in unsuitable and excessive trading in the accounts of a public customer. The findings also stated that Lubinsky failed to respond to NASD requests for information and documents. **(NASD Case #C07990006)**

Edward Daniel McKechnie (CRD #2321046, Registered Representative, North Branford, Connecticut) was barred from association with any NASD member in any capacity. The sanction was based on findings that McKechnie impersonated insurance policyholders in telephone calls, requested and obtained unauthorized changes of address for the policyholders which changed their addresses to his home address, and requested dividend releases that were sent to his home. The findings also stated that McKechnie forged the policyholders' signatures on the checks and deposited the checks into his personal account, thereby converting funds belonging to his customers to his own use and benefit. **(NASD Case #C11990043)**

Leo Morrison (CRD #2618884, Registered Representative, Bonita Springs, Florida) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for four months. Without admitting or denying the allegations, Morrison consented to the described sanction and to the entry of findings that he engaged in private

securities transactions for compensation without providing written or oral notification to his member firm. The findings also stated that Morrison sent sales literature to a public customer and failed to have it approved by a registered principal of his firm prior to its use. **(NASD Case #C07990061)**

Robert Franklin Mueller (CRD #2756171, Registered Representative, Edison, New Jersey) 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, Mueller consented to the described sanction and to the entry of findings that he signed the signatures of public customers on property and casualty takeover request forms without the knowledge or consent of the customers and falsely testified during an NASD on-the-record interview that the customers had signed the forms. **(NASD Case #C9B000002)**

Michael Stanley Muscarella (CRD #2530037, Registered Principal, East Brunswick, New Jersey) 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, Muscarella consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for documents and/or information. **(NASD Case #C10990218)**

Erik Michael Nerzig (CRD #2616141, Registered Representative, Melville, New York) submitted a Letter of Acceptance, Waiver, and Consent

pursuant to which he was fined \$18,189 (including \$3,189 representing disgorgement of commissions earned), suspended from association with any NASD member in any capacity for 60 business days, and required to pay \$43,874, plus interest, in restitution to a public customer. Nerzig must also requalify by exam as a general securities representative within 90 days from the date the AWC is accepted by the NAC. If he fails to requalify within this period, he will be suspended from acting in such capacity until the exam is successfully completed. Payment of the fine and satisfactory proof of payment of restitution will be prerequisites of any application for reentry. Without admitting or denying the allegations, Nerzig consented to the described sanctions and to the entry of findings that he solicited a public customer to purchase units in an IPO and minimized the investment risks and made unwarranted price predictions. The findings also stated that Nerzig's recommendation was unsuitable because the stock was speculative and involved a high degree of risk. **(NASD Case #C10000016)**

Duane Arthur Nordquist (CRD #1402482, Registered Representative, Panora, Iowa) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$13,000 and barred from association with any NASD member in any capacity. Payment of the fine shall be a prerequisite for consideration of any future application for registration with any member firm. Without admitting or denying the allegations, Nordquist consented to the described sanctions and to the entry of findings that he offered and sold promissory notes for compensation to public customers and failed to provide written notice

to, or to receive written authorization from, his member firm to participate in private securities transactions. **(NASD Case #C8A000002)**

Alex Osterneck (CRD #1663321, Registered Representative, Bryn Mawr, Pennsylvania) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Osterneck consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information completely or to respond in a timely manner. **(NASD Case #C9A990050)**

Charles Golden Paxton (CRD #1035500, Registered Representative, Snohomish, Washington) was barred from association with any NASD member in any capacity. The sanction was based on findings that Paxton failed to respond to NASD requests for information. **(NASD Case #C3B990026)**

Robert Wayne Rodgers (CRD #2596775, Registered Representative, Dothan, Alabama) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$4,850 and suspended from association with any NASD member in any capacity for five days. The fine is due upon reentry to the securities industry. Without admitting or denying the allegations, Rodgers consented to the described sanctions and to the entry of findings that he failed to inform and to request permission, in writing, from his member firm to maintain third party trading authorization in order to trade securities accounts with another firm. **(NASD Case #C05990058)**

Thomas August Rusch (CRD #2685990, Registered Representative, Greenville, South Carolina) was fined \$2,500 and suspended from association with any NASD member in any capacity for 60 days. The sanctions were based on findings that Rusch failed to respond to an NASD request for information in a timely manner. **(NASD Case #C07990047)**

Desh Deepak Sahni (CRD #2652421, Registered Representative, Glen Cove, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. The fine shall be due and payable prior to reassociation with a member firm or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Sahni consented to the described sanctions and to the entry of findings that he failed to disclose an arrest on a compliance disclosure form that he submitted to a member firm. **(NASD Case #9B000005)**

Joseph John Salerno, III (CRD #1846102, Registered Principal, Margate, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$100,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Salerno consented to the described sanctions and to the entry of findings that, as branch manager of a member firm, he sold penny stocks to public customers without obtaining signed receipts of the required penny stock transaction risk disclosure statement and trade agreements

and signed written statements relating to the purchaser's financial condition, investment experience, and investment objectives. Transactions also took place without disclosing the bid and ask price prior to the transactions or at the time of confirmation, and without disclosing compensation to the firm and registered representative at the time of confirmation. The findings also stated that Salerno engaged in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm. In addition, Salerno accepted monies for investment without signed subscription agreements or any other indication that the customers intended to purchase Class "A" shares of the security's common stock and allowed an unregistered person to solicit public customers to invest. Salerno also failed to supervise registered representatives properly to ensure compliance with applicable rules and regulations and to prevent fraudulent price predictions and misrepresentations. Moreover, while the member firm participated in a distribution of shares of a common stock purchased from a selling security holder, Salerno posted bid and ask price quotations for the stock; he purchased, and permitted other registered representatives at the firm to purchase, shares from retail customers and other market participants; and he solicited, and permitted other registered representatives at the firm to solicit, purchases of the stock from retail customers and other market participants. **(NASD Case #C04000004)**

Harlan James Scott (CRD #1545214, Registered Representative, Fort Collins, Colorado) 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 10 business days. Without admitting or denying the allegations, Scott consented to the described sanctions and to the entry of findings that he failed to amend his Form U-4 to disclose a guilty plea to a felony. **(NASD Case #C3A000004)**

Robert Murray Smith (CRD #428820, Registered Representative, Bryn Mawr, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, suspended from association with any NASD member in any capacity for 45 days, suspended from association with any NASD member in any principal capacity for one year, and required to requalify by passing the Series 7 exam within 90 days after the acceptance of this AWC. If Smith fails to requalify within the 90 days, he may not continue to function as a registered representative until he does so. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he recommended and engaged in purchase and sale transactions in the accounts of public customers without having reasonable grounds for believing that such recommendations and resultant transactions were suitable based on financial situation, investment objectives, needs, size and frequency of transactions, and the nature of the accounts. The findings also stated that Smith exercised discretion in the accounts of public customers without having obtained prior written authorization from the customers and prior written acceptance of the accounts

as discretionary by his member firm. **(NASD Case #C9A000002)**

Ronna Sue Stark (CRD #2136690, Registered Representative, Lacey, Washington) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Stark failed to respond to NASD requests for information regarding a possible conversion of customer funds. **(NASD Case #C3B990030)**

Ralph Anthony Stingo (CRD #729783, Registered Representative, Bellerose Terrace, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Stingo consented to the described sanctions and to the entry of findings that he deposited \$5,467.23 of customer funds into his personal account, thereby commingling the monies with other funds. **(NASD Case #C10000017)**

Matthew Franklin Taylor, Jr. (CRD #3013563, Registered Principal, Dayton, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Taylor failed to respond to NASD requests for information concerning his termination from a member firm and his possible participation in private securities transactions. **(NASD Case #C8B990027)**

Thomas Arthur Turnure (CRD #1316278, Registered Principal, Wyckoff, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, and required to

requalify as a general securities principal. Without admitting or denying the allegations, Turnure consented to the described sanctions and to the entry of findings that he failed to report customer complaints received by his former member firm to the NASD. **(NASD Case #C10000003)**

Gary Lee Walker (CRD #2622510, Registered Representative, Sacramento, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. The fine is due and payable prior to any membership application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Walker consented to the described sanctions and to the entry of findings that he borrowed \$10,400 from public customers when he knew that he would be unable to repay the loans when due. **(NASD Case #C01000002)**

Susan Marie Wuest (CRD #1395441, Registered Representative, Gilbert, Arizona) 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, Wuest consented to the described sanction and to the entry of findings that she converted approximately \$194,000 from the accounts of public customers and approximately \$112,000 from her member firm to her own use. The findings also stated that, in connection with her conversion of funds from her firm, Wuest forged the required second signature on checks so that she could deposit the checks into her own account. **(NASD Case #C3A000002)**

Individual Fined

Leonard Alan Neuhaus (CRD #1871294, Registered Principal, Roslyn Heights, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and required to requalify by exam in all capacities within 90 days of the acceptance of this AWC by the NASD. If Neuhaus fails to requalify within this mandated period, he will be suspended from functioning in that capacity with any member firm until such exam is successfully completed. Without admitting or denying the allegations, Neuhaus consented to the described sanctions and to the entry of findings that he failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to the designation of supervisory personnel, trade reporting, best execution, the Limit Order Protection Interpretation, Order Handling Rules, registration of persons with the NASD, the use of SOES, recordkeeping, locked and crossed markets, and anti-competitive practices. **(NASD Case #CMS990179)**

Decision Issued

The following decision has been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of February 15, 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*.

Jim Newcomb (CRD #1376482, Registered Principal, Fort Collins, Colorado) was fined \$32,000 and suspended from association with any NASD member in any capacity for 90 days. The sanctions were based on findings that Newcomb engaged in private securities transactions, received selling compensation for these transactions, and failed to give prior written notice to, or to receive written approval from, his member firm.

Newcomb has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C3A990050)**

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.

Gerard Bruzzese (CRD #2540877, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he effected transactions in the joint account of public customers without their knowledge, authorization, or consent. The complaint also alleges that Bruzzese failed to appear for an NASD on-the-record interview. **(NASD Case #C10000023)**

Richard Alan Frondorf (CRD #2054157, Registered Representative, Abita Springs, Louisiana) was named as a respondent in an NASD complaint alleging that he caused checks in the total amount of \$6,500 to be sent to public customers without their prior knowledge or consent, thereby creating margin loan balances in their accounts. The complaint also alleges that Frondorf induced the customers to provide false written statements concerning the activity which he tendered to his member firm. **(NASD Case #C05000002)**

Patricia Leonora Gill (CRD #1079696, Registered Representative, Torrance, California) was named as a respondent in an NASD complaint alleging that she sent a letter without the knowledge or consent of public customers, requesting liquidation of their interest in a mutual fund and to send the proceeds to her member firm. The complaint further alleges that a \$281,198.51 proceeds check was deposited in the firm's general account and was credited to an account of which Gill was a co-owner with her brother. The complaint further alleges that Gill converted the proceeds to her own use and benefit and no part of the proceeds were ever credited to the customers' account. In addition, the complaint alleges that Gill failed to

respond to NASD requests for information. **(NASD Case #C02000001)**

Richard Scott Ginsberg (CRD #1516467, Registered Representative, Ft. Lauderdale, Florida) was named as a respondent in an NASD complaint alleging that he made baseless price predictions and/or predictions of returns in his recommendations to public customers. The complaint also alleges that Ginsberg defrauded customers by recklessly making misstatements and omissions of material fact. The complaint further alleges that, through his actions, customers incurred realized and unrealized losses of at least \$850,000 and Ginsberg received ill-gotten gains in the form of commission income. **(NASD Case #C04000002)**

Mark Lund Griffis (CRD #2767069, Registered Representative, West Palm Beach, Florida) was named as a respondent in an NASD complaint alleging that he effected unauthorized transactions in the account of a public customer. The complaint also alleges that Griffis effected transactions in another public customer's individual and IRA accounts pursuant to oral discretion, without written authority and without the account approved as a discretionary account by his member firm. The complaint further alleges that Griffis failed to respond to NASD requests for information. **(NASD Case #C07000004)**

Jeffrey Alan Klawitter (CRD #1439576, Registered Representative, Downers Grove, Illinois) was named as a respondent in an NASD complaint alleging that he received checks totaling \$1,550 from public customers to pay for a financial plan or an asset allocation plan,

cashed the checks, and used the funds for his own benefit or for some purpose other than the customers' benefit. The complaint also alleges that Klawitter failed to respond to NASD requests for documents and information. **(NASD Case #C8A000006)**

Joel Mark Warren (CRD #2676655, Registered Principal, Hyattsville, Maryland) was named as a respondent in an NASD complaint alleging that he caused \$286,000 to be withdrawn from the securities account maintained by a public customer and to be transferred, in part, to the customer's bank account and, in part, to another bank account, without the authorization or consent of the customer. The complaint also alleges that Warren failed to respond to NASD requests to provide a written report concerning matters in a Form U-5. **(NASD Case #C9A000004)**

John C. Welling (CRD #2837015, Registered Representative, Lee's Summit, Missouri) was named as a respondent in an NASD complaint alleging that he obtained personal checks for the bank account of an individual in his firm, made the checks payable to himself, signed the individual's name to the checks, deposited them into an account Welling controlled, and converted the funds to his own use. The complaint alleges that Welling converted \$6,500. **(NASD Case #C04000008)**

Michael Edmond Zulick (CRD #1834341, Registered Principal, Akron, Ohio) was named as a respondent in an NASD complaint alleging that he converted payment for order flow checks payable to his member firm to his personal use. The complaint also alleges that Zulick charged numerous items for personal use to his firm's corporate

credit card and paid for the charged items with firm funds, thereby converting firm funds to his own use. The complaint further alleges that Zulick wrote corporate checks to himself or for cash which he used for his personal benefit and paid for personal items with checks drawn on his firm's checking account, thereby converting firm funds to his personal use. **(NASD Case #C8B000001)**

Firm Suspended

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was 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.

Bright Cove Securities, Inc.,
Virginia Beach, Virginia
(February 10, 2000)

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

Cruz, Paul, Colorado Springs, Colorado (February 17, 2000)

Gates, Donald R., Cabot, Arkansas (February 17, 2000)

McVicar, Patrick J., Jersey City, New Jersey (February 17, 2000)

Palma, Victor H., Staten Island, New York (February 17, 2000)

Stone, Michael S., Eagan,
Minnesota (February 17, 2000)

NASD Regulation Charges U.S. Rica Financial, Inc.; Firm President With Obtaining Secret Profits From Customers

NASD Regulation announced that it issued a complaint charging U.S. Rica Financial, Inc., San Jose, CA and its president and owner, Vinh Huu Nguyen, with misrepresenting to customers, on its Web Site, *www.usrica.com*, and on trade confirmations, the amounts that the firm was charging customers for online trades. The complaint alleges that U.S. Rica and Nguyen advertised at different times on its Web Site that customers would be charged a fixed low commission for Internet trades, that it is "Ranked Top 10 for Overall Low Cost" by *Gomez.com*, and that trades would be done for free during a 1999 year-end, "Millennium Special." In fact, the firm was making secret profits on its customer trades by fraudulently charging undisclosed markups and markdowns.

In the complaint, NASD Regulation alleges that U.S. Rica and Nguyen violated the NASD's advertising rule, engaged in fraudulent conduct, issued false and misleading confirmations, and failed to maintain the necessary records regarding transactions in its inventory account. U.S. Rica's activities resulted in secret profits totaling more than \$37,000 from trading in January 1999. The complaint further alleges U.S. Rica made secret profits of nearly \$19,000 from 21 trades during December 1999 on a day when it advertised to customers that all Internet trades would be done for free. The firm is also alleged to have made more than \$58,000 in undisclosed charges to customers

in over 300 trades throughout the last two years. NASD Regulation charges that as recently as January 5, 2000, U.S. Rica and Nguyen charged customers undisclosed amounts for trades.

NASD Regulation alleges that Nguyen, through U.S. Rica, was placing trades for its customers on a principal, rather than agency basis. When assuming the role of principal in a trade, a brokerage firm takes an order from customers and buys the securities from or sells them to its customers from its own account, and charges a markup. In completing an agency transaction, the firm takes a customer's order, goes to the market, fills it, and then charges a commission.

In violation of NASD rules, U.S. Rica indicated to customers that their orders had been filled on an "agency basis" and that they would be charged a low, \$4.95 commission. NASD Regulation alleged that U.S. Rica and Nguyen actually filled customers' orders by purchasing the stock for the firm's inventory (acting as principal) and then selling it to customers charging a markup as well as the \$4.95 commission. For example, in one sale, a customer placed an order for 500 shares of a listed security. Nguyen purchased the stock for 22 3/8 in U.S. Rica's inventory account. He then sold the shares from the firm's inventory account to the customer for the price of \$23.00 per share. The customer's confirmation statement reflected that the trade was an agency trade with a commission of \$4.95. In reality, U.S. Rica's markup, and secret profit, was \$312.50 – a fact not disclosed to the customer.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD

Regulation 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 this complaint is unadjudicated, the respondents should be contacted before drawing any conclusion regarding the allegations. This case was investigated by NASD Regulation's San Francisco District Office.

NASD Regulation Announces Eight Day-Trading Enforcement Actions

NASD Regulation announced the filing of eight new enforcement actions in the day-trading area. These formal disciplinary actions are the direct result of NASD Regulation's focused examinations of day-trading firms conducted over the course of the past year.

These eight cases include allegations and, in some settled cases, findings of violations in the following areas:

- Misuse of customer funds and securities;
- Improper lending and margin practices;
- Exaggerated and misleading advertising;
- Violations of NASD short sale rules;
- Improperly registered persons;
- Improper use of SOES; and
- Supervisory inadequacies.

Misuse Of Funds

Two of the cases involve allegations of misuse of funds, including one in which the owner of a day-trading management

company solicited more than \$150,000 from outside investors, falsely representing that these moneys would be used for “risk-free” loans to day-trading customers of the firm. In addition, the investors were promised returns of at least 15 percent per year or 20 percent of the profits earned by the day traders to whom the money was lent. Instead, the funds were loaned to customers with no controls or restrictions, were improperly used for branch operating expenses, and were eventually lost.

Improper Lending/Margin Practices

In two other cases, NASD Regulation found violations of its rules in connection with margin calls, including one in which a firm’s principal allowed a customer to effect 120 transactions after the customer’s account was coded “no more business” by the clearing firm for failing to meet a margin call. In another case, the firm’s registered representative established a separate entity account, which then loaned funds to firm customers to meet Regulation T margin calls.

Violations Of Advertising Rules

Four of the day-trading actions include allegations or findings of violations of the NASD’s advertising rules, including instances in which firms placed exaggerated and potentially misleading advertising on the Internet, as well as in local print and radio media. These firms typically exaggerated the ability of customers to access markets immediately, without disclosing the risks inherent in day-trading strategies, including market volatility. One advertisement told prospective day traders that they could “control [their] own destiny through electronic day trading” without any corresponding disclosure of the risks.

Violations Of Short Sale Rules

Violations of the NASD’s short sale rules were found in three cases, including failures to make affirmative determinations that securities could be delivered prior to the execution of each customer short sale transaction. In one case, a firm impermissibly allowed its day-trading customers to review daily postings of securities available to be borrowed and to make their own affirmative determinations of whether the securities could be borrowed prior to executing short sale transactions.

Inadequate Supervision/Improper Registration

NASD Regulation, in its formal complaints alleged and, in certain settled cases, made findings that firms failed to ensure that individuals actively engaged in their day-trading operations were properly registered, including one case in which the individual running the firm’s day-trading business was not registered as a principal. In other cases, employees of the firm were acting as equity traders without having completed the NASD’s Series 55 registration requirements. In one case, the firm allowed individuals to input trades for customers for periods of several weeks, without registering them in any capacity with the firm.

Supervisory Deficiencies

Certain actions involve serious supervisory deficiencies, including one case in which a firm engaged in day-trading activities without having any written procedures in place to address that area of the firm’s business.

The sanctions in the group of settled actions include censures, suspensions and individual fines, and fines against firms ranging from \$13,000 to \$37,500.

These actions were investigated and filed by NASD Regulation District Offices in New Orleans, Dallas, and Chicago.

DAY TRADING ENFORCEMENT ACTIONS INCLUDE:

1. 1-800DAYTRADE.COM, Inc., Richardson, Texas – Case #C06000006

1-800DAYTRADE.COM, Inc. settled the following charges without admitting or denying NASD Regulation allegations. The findings include:

- using radio and newspaper advertisements that reflect exaggerated and unwarranted statements and failing to file advertisements with the NASD;
- failing to register traders;
- executing short sale on a “downtick” violations;
- failing to maintain accurate books and records; and
- failing to maintain adequate supervisory procedures.

The firm was censured and fined \$25,000, which includes unlawful profits of \$7,500.

2. Donnelly & Co., Inc., Midland, Texas – Case #C06000004

Donnelly & Co., Inc., along with its President, George Arthur Donnelly, III, settled the following charges without admitting or denying NASD Regulation allegations. The findings include:

- executing proprietary trades through SOES in violation of the SOES rules;
- distributing a press release and promotional materials reflecting exaggerated and unwarranted

statements in violation of the advertising rules;

- failing to adhere to Continuing Education — Firm Element requirements; and
- failing to maintain adequate supervisory procedures.

Both the firm and Donnelly were censured and fined. The firm was fined \$17,500, of which the firm and George Donnelly are jointly responsible for \$15,000.

3. Self Trading Securities, Inc., Austin, Texas – Case #C06000005

Self Trading Securities, Inc., along with John A. Pearson, are named as respondents in this complaint. The complaint sets forth allegations of:

- registration violations (use of licensed, but unregistered order input personnel);
- advertising violations (use of an Internet Web site to reflect exaggerated and unwarranted statements);
- Continuing Education — Firm Element; and
- inadequate supervisory procedures.

4. LaSalle St. Securities, L.L.C., Chicago, Illinois – Case #C8A000015

LaSalle St. Securities, L.L.C. settled the following charges without admitting or denying NASD Regulation allegations. The findings include:

- failing to designate a branch as an Office of Supervisory Jurisdiction;

- publishing newspaper advertisements which contained exaggerated and unwarranted statements;
- failure to evidence principal approval of new day-trading accounts; and
- trade reporting violations.

The firm was censured and fined \$13,000.

5. Heath A. Butler, et al., New Orleans, Louisiana – Case #C05000006

Heath A. Butler and Don A. Rouzan are named in this complaint, which alleges:

- misuse of funds and fraud in the sale of securities consisting of investment contracts by which investors financed day-traders — to date, less than 10 percent of investors' money has been repaid having been lost by day traders or consumed by branch office expenses; and
- conducting private securities transactions in connection with the sale of these same securities.

6. Addison Securities, Inc., et al., Dallas, Texas – Case #C050000

Addison Securities, Inc., along with Abel Garcia, Jr., without admitting or denying NASD Regulation allegations, settled the following charges. The findings include:

- the firm, acting through Garcia, lent funds to public customers through an entity owned in part by Garcia, for the purpose of meeting Regulation T margin calls;
- Garcia exercised discretion in a customer account without written authorization; failed to mark

trades in the account as discretionary; and signed the customer's name to documents, including letters of authorization, with oral, but not written authorization;

- the firm allowed Garcia to actively engage in the management of the firm's day-trading operations without requiring him to be registered as a principal;
- short sale rule violations, including exercising short sale transactions on a "downtick"; failing to make affirmative determination that stocks sold short could be delivered or borrowed; and failing to appropriately mark transactions as short sale; and
- deficiencies in its written supervisory procedures, specifically with respect to its day-trading operations, which were in draft form only, despite the fact that the firm conducted this business for 16 months.

The firm is censured and fined \$37,500, portions of which are joint and several against Garcia; Garcia is fined an additional \$5,000 and suspended for three weeks.

7. James Han, Case #C05000005

The allegations in this complaint against James Han, formerly with Landmark Securities Corporation, include the following:

- unauthorized transfer of customer funds to Han's account;
- unauthorized transfer of customers' securities to Han's account; and
- failure to respond to staff requests for information.

**8. Choice Investments, Inc.,
Austin, Texas – Case #C050000**

Choice Investments, Inc., along with a firm principal, Mark Wright, settled the following charges without admitting or denying NASD Regulation allegations. The findings include:

- Wright allowed a customer to continue trading after the account had been coded “no more business” by the clearing firm; specifically, Wright transferred the customer’s transactions into an account that he controlled, and then, after three weeks, transferred positions back into the customer’s account after it had been cleared to trade again;
- the firm permitted an individual to execute equity security trades without the proper registration;
- the firm executed short sale transactions without having made an affirmative determination that the stock could be borrowed; and
- the firm’s supervisory procedures were deficient and the firm relied on customers to make their own affirmative determinations that stock could be borrowed, prior to entering into short sale transactions.

The firm is censured and fined \$27,000. The firm and Wright are jointly responsible for \$12,500 of that amount. Wright is also suspended for three weeks in all capacities.

**NASD Regulation Expels LT
Lawrence & Co., Inc., Bars
Principals For Fraud, And
Obtains \$275,000 In
Restitution For Investors**

NASD Regulation announced that it has expelled LT Lawrence & Co., Inc., of New York, NY, from the securities industry and permanently barred its Chief Executive Officer, Lawrence Principato, and its President, Todd E. Roberti, for defrauding investors through excessive markups and markdowns in 350 transactions. In settling the charges, Principato and Roberti have agreed to fully reimburse the 300 LT Lawrence customers, in 37 states and the United Kingdom, who sustained \$275,000 in damages.

NASD Regulation originally filed a complaint against LT Lawrence, Principato, and Roberti in September 1998 alleging that they charged the firm’s customers excessive or fraudulent markups or markdowns in transactions of EcoTyre Technologies, Inc. Common Stock and Class A Warrants. As alleged in the complaint, the fraudulent transactions occurred while LT Lawrence, after acting as managing underwriter for EcoTyre’s initial public offering, dominated and controlled the trading activity of these securities from February 6, 1996 through March 29, 1996. As part of this settlement, Principato and Roberti neither admitted nor denied the allegations.

In the September 1998 complaint, NASD Regulation also alleged that

the firm’s Compliance Officer, Mitchell J. Halpern, failed to establish, implement, and enforce supervisory procedures designed to prevent this type of conduct. As part of Halpern’s settlement, also announced, he neither admitted nor denied the allegations and has been suspended from associating with any NASD member, in any capacity, for a period of 30 days and fined \$20,000.

In July 1999, LT Lawrence’s Head Trader, Thomas J. Dalton, settled a related disciplinary proceeding by consenting, without admitting or denying NASD Regulation’s allegations, to findings that he also participated in the fraud. Mr. Dalton was suspended from associating with any NASD member, in any capacity for a period of three months and fined \$40,000.

NASD Regulation did not allege any wrongdoing on the part of EcoTyre.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved.