

Disciplinary Actions

Disciplinary Actions Reported For September

NASD Regulation, Inc. (NASD Regulation®) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD®) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, September 20, 1999. The information relating to matters contained in this *Notice* is current as of the end of August 21, 1999.

Firm Expelled, Individual Sanctioned

Global Strategies Group, Inc. (CRD #27414, New York, New York) and Kurt Douglas Fethke (CRD #2565653, Registered Representative, Los Angeles, California). The firm was fined \$25,000 and expelled from NASD membership, and Fethke was fined \$45,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Fethke executed unauthorized transactions in the accounts of public customers and failed to respond to NASD requests to provide information and testimony. In addition, the firm failed to properly supervise its Beverly Hills branch office in that its supervisory system was not reasonably designed to achieve compliance with federal securities laws and NASD rules. **(NASD Case #C02980018)**

Firm Expelled

The Harriman Group, Inc. a.k.a, HGI, Inc. (CRD #14079, Jericho, New York) was fined \$12,300,000, and expelled from membership in the NASD. The sanctions were

based on findings that the firm failed to disclose to its customers, by prospectus delivery or otherwise, certain material information relating to secondary public offerings and distributions of common stock. In addition, the firm failed to file certain documents and information pertaining to the terms, conditions, and arrangements of the firm's participation as an underwriter and received undisclosed and excessive underwriting compensation in connection with the firm's participation as an underwriter in secondary public offerings and distributions of common stock. Furthermore, the firm failed to deliver to investors prospectuses that contained all of the information set forth in the registration agreement, and delivered to investors stock offered in public offerings without the accompaniment of post-effective amended or supplemented prospectuses. Also, the firm failed to establish, maintain, and enforce written procedures to supervise the firm's corporate financing and underwriting activities that were reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. **(NASD Case #C10970189)**

Firm And Individual Suspended

Kunz & Cline Investment Management, Inc. (CRD #37196, Salt Lake City, Utah) and Kevin Dee Kunz (CRD #1274540, Registered Principal, Fruit Heights, Utah) were censured and fined \$20,000, jointly and severally, and Kunz was fined \$5,000, individually. In addition, Kunz was suspended from association with any NASD member in any capacity for 30 days and in a principal capacity for one year, such suspensions to run concurrently.

Moreover, Kunz must requalify in a representative capacity within 90 days of the conclusion of his suspension as a representative or cease to function in such capacity until he requalifies, and to requalify in a principal capacity before functioning in such capacity after the conclusion of his principal suspension. Furthermore, the firm was suspended from participation in any public or private offering of a security in the capacities of lead underwriter, primary placement, or sales agent until such time as it retains an independent consultant to review the adequacy and completeness of the firm's operational, compliance, and supervisory procedures pertaining to participation in such offerings in such capacities and the firm demonstrates to the NASD that it has implemented any recommendations of the consultant. The sanctions were based on findings that the firm, acting through Kunz, sold securities pursuant to private placement memoranda containing material misrepresentations and omissions, and sold securities that were neither registered with the Securities and Exchange Commission (SEC) nor exempt from registration, and Kunz compensated an unregistered person in connection with the sale of securities.

The firm and Kunz appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C3A960029)**

Firms And Individuals Fined

Quaker Securities, Inc. (CRD #27263, Valley Forge, Pennsylvania) and **Jeffrey Howard King, Sr. (CRD #1570133, Registered Principal, New Hope, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they

were censured and fined \$15,000, jointly and severally. The firm was also fined an additional \$15,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through King, failed to establish, maintain, and enforce adequate supervisory procedures involving the activities of registered representatives; failed to supervise these individuals adequately by allowing them to participate in private securities transactions; and failed to record all the details of such transactions on its books and records. The findings also stated that the firm failed to accept or decline securities transactions within 20 minutes of execution, and effected transactions of Nasdaq National Market® securities while failing to report the transactions timely and accurately. In addition, the NASD determined that the firm, acting through King, failed to obtain the complete participation of all eligible personnel in its Firm Element training program. **(NASD Case #C9A990037)**

Tullett & Tokyo Securities, Inc. (CRD #19595, New York, New York) and **James Michael Avena (CRD #1073158, Registered Principal, Manhasset, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$20,000, jointly and severally. In addition, the firm was required to undertake to pay the NASD \$130,000 which represents a portion of the financial benefit the firm derived by allowing registered representatives to conduct a securities business while their registrations were inactive. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Avena, permitted registered representatives to conduct a

securities business while their registrations were inactive due to failure to satisfy the Regulatory Element of the Continuing Education requirements. **(NASD Case #C04990030)**

Firms Fined

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 \$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 execute SelectNetSM orders and thereby failed to honor its published quotation. **(NASD Case #CMS990070)**

Ladenburg, Thalmann & Co., Inc. (CRD #505, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it improperly permitted a statutorily disqualified individual to become and remain an assistant trader prior to receiving NASD and SEC approval for such employment. **(NASD Case #C10990136)**

Morgan Stanley & Co., Inc. (CRD #8209, 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 reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable laws and regulations regarding trade reporting. The findings also stated

that the firm failed to use reasonable diligence to ascertain the best inter-dealer market for securities and to buy or sell in such market so that the resultant price to each customer was as favorable as possible under prevailing market conditions. In addition, the NASD found that the firm failed to report transactions in high yield bonds not quoted in the Fixed Income Pricing SystemSM (FIPS[®]) on the dates of each such transaction any time during the operating hours of FIPS. The firm also failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to ACT compliance, trade reporting, recordkeeping, SEC Rule 10b-10, the SEC's Order Handling Rules, the Limit Order Protection Interpretation, best execution, anti-competitive practices, the use of the Small Order Execution SystemSM (SOESSM), and the conducting of an annual review of its OTC Trading Department. **(NASD Case #CMS990084)**

Neuberger Berman, LLC (CRD #2908, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$13,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report accurately to the NASD the total of "short" positions in all customer and proprietary firm accounts in securities included in The Nasdaq Stock Market, Inc.; inaccurately reported short sales as long sales; and failed to have adequate written procedures in place to identify the nature and frequency of the reviews that were to occur to ensure accurate reporting of short positions. **(NASD Case #C06990012)**

Warburg Dillon Read, L.L.C. (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$9,500, and required to pay \$3,968.75, 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 received customer limit orders to buy or sell securities and failed to contemporaneously execute shares of the customer limit orders after it bought or sold shares for its market-making account. The findings also stated that firm failed to immediately display customer limit orders when the orders were at a price that would have improved its bid or offer in each security related to those orders or when the orders were priced equal to its bid or offer and the national best bid or offer and the size of the orders represented more than a de minimis amount in relation to the size associated with its bid or offer in each security. Furthermore, the NASD determined that the firm failed to provide, in connection with transactions where it acted as principal, written notification to its customers of the reported trade price of the transaction, and failed to maintain memoranda on broker orders in compliance with SEC and NASD rules. The NASD also found that the firm sold shares of securities to public customers and failed to use reasonable diligence to ascertain the best inter-dealer markets for the securities so that the resultant prices to the customers were as favorable as possible under prevailing market conditions. **(NASD Case #CMS990069)**

Individuals Barred Or Suspended

Paul Michael Acosta (CRD #1455279, Registered Representative, Naples, Florida) was fined \$3,655,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Acosta received \$1,054,000 from public customers to invest on their behalf, failed to invest the funds as directed, provided one customer with periodic false account statements purporting to show activity in her account, and consistently represented to other customers that their funds had been invested in mutual funds and other products. Instead, Acosta used the funds in connection with his own business activities. In addition, Acosta failed to disclose to his member firms that he was engaged in outside activities and failed to respond to NASD requests for information and documentation. **(NASD Case #C07980076)**

James Michael Amira (CRD #2777512, Registered Representative, Melville, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Amira consented to the described sanctions and to the entry of findings that he submitted a falsified Form U-4 to his member firm that failed to indicate that he had been charged with a felony and that he was the subject of a complaint, investigation, or proceeding. **(NASD Case #C10990127)**

Richard John Berg (CRD #1830892, Registered Principal, White Plains, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$75,000 and

barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Berg consented to the described sanctions and the entry of findings that he recommended and engaged in purchase and sale transactions in the accounts of public customers and did not have reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customers on the basis of their financial situations, investment objectives, and needs. The findings also stated that Berg, by use of instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud the customers by making untrue statements of material facts or omitted to state material facts necessary to make the statements, in light of the circumstances in which they were made, not misleading. In addition, Berg repeatedly caused false information regarding customers' investment objectives to be entered on new account forms and collected and destroyed or hid documents from regulators to impede their examinations. **(NASD Case #C9B990014)**

Jon Thomas Brainard (CRD #1973269, Registered Principal, New York, New York) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brainard consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information concerning a customer complaint. **(NASD Case #C10990036)**

Cary Francis Butterfield (CRD #1291148, Registered Representative, Augusta, Maine) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined

\$5,000, suspended from association with any NASD member in any capacity for 30 days, and required to pay \$32,847.34 in restitution to public customers. Without admitting or denying the allegations, Butterfield consented to the described sanctions and to the entry of findings that he engaged in private securities transactions in that he participated in the sale of promissory notes to customers without written notice to, and approval from, his member firm. **(NASD Case #C11990032)**

Joseph Capolino, Jr. (CRD #1963136, Registered Representative, Elmhurst, New York) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Capolino failed to respond to NASD requests for information concerning a customer complaint. **(NASD Case #C10990047)**

David Raymond Carroll (CRD #2689306, Registered Representative, Washington, D.C.) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Carroll failed to respond to NASD requests for information. **(NASD Case #C9A990002)**

James Emil Cioffi (CRD #2514915, Registered Representative, Staten Island, New York) submitted an Offer of Settlement pursuant to which he was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cioffi consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 Qualification Exam on his behalf. The findings also stated that Cioffi failed to provide the NASD with documents and to appear for an on-the-record interview. **(NASD Case #C10990042)**

Reginald Bernard Cunningham (CRD #1236085, Registered Representative, Chicago, Illinois) was fined \$30,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cunningham received \$154.20 from public customers to reinstate their life insurance policies, issued a receipt for the funds, and failed to apply the funds to the policies because he had "lost" the money. The findings also stated that Cunningham failed to respond to NASD requests for information. **(NASD Case #C8A990030)**

Joann Camille Dodd (CRD #2073552, Registered Representative, Tampa, Florida) was fined \$34,500, suspended from association with any NASD member in any capacity for three months, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Dodd received checks totaling \$9,459.67 from a public customer to set up a 401(k) plan for himself and his employees, failed to cash the checks and to set up the plan, resulting in potential tax penalties and taxes of as much as \$20,000 for the customer. Dodd also failed to respond to NASD requests for information. **(NASD Case #C07980062)**

Gary Anthony Familathe, Jr. (CRD #2665609, Registered Representative, San Francisco, California) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Familathe failed to respond to NASD requests for information. **(NASD Case #C01990003)**

Charles M. Funk, Jr. (CRD #1392152, Registered Representative, Ardmore, Pennsylvania) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Funk failed to respond

to NASD requests for information. **(NASD Case #C9A990003)**

Kodjo Gumeke Gassou (CRD #2254196, Registered Representative, Hillsboro, Florida) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Gassou failed to respond to NASD requests for information. **(NASD Case #C07980075)**

Robert Louis Giardina (CRD #2554997, Registered Representative, Staten Island, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, suspended from association with any NASD member in any capacity for 60 days, and ordered to pay restitution of \$15,000 to a public customer. Without admitting or denying the allegations, Giardina consented to the described sanctions and to the entry of findings that he defrauded a public customer by misrepresenting to the customer that several companies would be signing an agreement to purchase shares of stock and that the customer should "get in" on the deal before the stock price went up, when, in actuality, there was no agreement. When the customer instructed Giardina to sell his holdings due to declining stock prices, Giardina persuaded the customer not to sell because of the "deal." The findings also stated that Giardina failed to timely respond to NASD requests to provide a written statement concerning allegations contained in customer complaints and to appear for an on-the-record interview. **(NASD Case #C10990012)**

Alberto Gonzalez (CRD #2770755, Registered Representative, South San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$12,684.85 and barred from association with any

NASD member in any capacity. Without admitting or denying the allegations, Gonzalez consented to the described sanctions and to the entry of findings that he received a total of \$536.97 from a public customer and a fellow registered representative and misappropriated the funds to his own use and benefit. **(NASD Case #C01990011)**

Paul Gorr (CRD #2613773, Registered Representative, Brooklyn, New York) was fined \$25,000 and barred from association with any NASD member. The sanctions were based on findings that Gorr failed to respond to NASD requests for information concerning an amended Form U-5 filed by his former member firm and an arbitration proceeding instituted by a public customer disclosed therein. **(NASD Case #C10980096)**

Gregory Alan Hartnett (CRD #2368837, Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was fined \$30,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hartnett consented to the described sanctions and to the entry of findings that he executed a note in the amount of \$21,500 in favor of a public customer to settle a complaint from the customer without disclosing the settlement to his member firm. The findings also stated that Hartnett provided false and misleading information in response to an NASD request for information. **(NASD Case #C01980020)**

Delmer D. Harvey (CRD #1284998, Registered Principal, Mitchell, South Dakota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from registration with any NASD member in any capacity

for 30 business days. Without admitting or denying the allegations, Harvey consented to the described sanctions and to the entry of findings that he engaged in an outside business activity and received compensation for such activity without providing prompt written notification to his member firm. **(NASD Case #C04990033)**

Peter Steven Haynes (CRD #1312640, Registered Representative, Boonton, New Jersey) was fined \$5,000, suspended from association with any NASD member in any capacity for 30 business days, and ordered to disgorge \$28,617. The sanctions were based on findings that Haynes conducted a securities business while employed at a member firm without being registered with the NASD. **(NASD Case #C10970176)**

Daniel Sebastian Hellen (CRD #2339553, Registered Representative, Centereach, New York) was censured, fined \$25,000, suspended from association with any NASD member in any capacity for two years, and required to requalify by exam in all capacities prior to associating with any member firm. In addition, Hellen was required to pay \$18,000 in restitution. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of a New York District Business Conduct Committee (DBCC) decision and a call for review by the NAC. The sanctions were based on findings that Hellen effected unauthorized transactions in the accounts of public customers.

Hellen's suspension commenced with the opening of business on July 15, 1999, and will conclude at the close of business on July 13, 2001. **(NASD Case #C3A970031)**

Ronald Kerr Helton (CRD #1822240, Registered Representative, Nashville, Tennessee) submitted a Letter of

Acceptance, Waiver, and Consent pursuant to which he was fined \$6,878.17 and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Helton consented to the described sanctions and to the entry of findings that he effected securities purchase transactions, on margin, for the account of a public customer that resulted in monthly margin balances ranging up to \$13,701.04. These transactions and resulting margin balances were unsuitable for the customer on the basis of her financial situation, investment objectives, and needs. The findings also stated that Helton shared in a loss in the customer's account by paying her \$3,000 without obtaining prior written authorization from his member firm. **(NASD Case #C05990032)**

Glen William Hilker (CRD #245646, Registered Representative, Denver, Colorado) submitted an Offer of Settlement pursuant to which he was censured, fined \$17,500, and suspended from association with any NASD member in any capacity for seven months. Without admitting or denying the allegations, Hilker consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. The findings also stated that Hilker failed to respond to NASD requests for information in a timely manner. **(NASD Cases #C3A970034 and C3A970053)**

Ezzat Tom Ishak (CRD #2160770, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and barred from association with any NASD member in any capacity with the right to reapply after two years.

Without admitting or denying the allegations, Ishak consented to the described sanctions and to the entry of findings that he executed the purchase and sale of warrants in the accounts of public customers without the customers' prior knowledge, authorization, or consent. The findings also stated that Ishak failed to execute the sale of warrants in the account of a public customer despite receiving an order from the customer. **(NASD Case #C10990112)**

Jerry S. Kim (CRD #2316516, Registered Representative, Staten Island, New York) 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 60 days. Without admitting or denying the allegations, Kim consented to the described sanctions and to the entry of findings that he accepted \$20,000 in cash from public customers for investment, invested \$5,000 at the customers' wishes, personally held on to the remaining funds, and then returned \$15,000 to the customers at a later date. The findings also stated that Kim never notified his member firm of the receipt of the cash, disregarded the firm's internal policy prohibiting representatives from accepting cash from a customer, and failed to follow his firm's procedures for recording and processing customer transactions. By failing to record the receipt of the cash on the branch office trade blotter, Kim caused his firm to fail to maintain accurate books and records as required by the SEC. **(NASD Case #C9B990020)**

Donald Kenneth Kozlowski (CRD #1002822, Registered Principal, Ft. Myers, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$3,500, suspended from association with any NASD member in any capacity for five

business days, and required to disgorge \$3,945.15 as restitution to public customers. Without admitting or denying the allegations, Kozlowski consented to the described sanctions and to the entry of findings that he sent a written communication via facsimile to a public customer regarding the future prospects of a security after the customer and his wife had purchased shares at Kozlowski's recommendation, made a misleading statement in the facsimile, and failed to have it approved prior to use by a registered principal of his member firm. **(NASD Case #C07990048)**

Todd Joseph LaScola (CRD #1968448, Registered Principal, Warwick, Rhode Island) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, LaScola consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information concerning alleged unauthorized trading and misappropriation of funds. **(NASD Case #C11990021)**

Damon Todd Lazar (CRD #2295614, Registered Representative, Plainview, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$7,000, suspended from association with any NASD member in any capacity for 10 weeks, and suspended thereafter until he requalifies by exam for any capacity in which he seeks to become registered with the NASD. Without admitting or denying the allegations, Lazar consented to the described sanctions and to the entry of findings that he knowingly or recklessly made numerous material misrepresentations of fact to a public customer concerning, and in connection with, his

recommendations to purchase common stock. **(NASD Case #C07980087)**

John Joseph Lee (CRD #1264054, Registered Principal, West Babylon, New York) was fined \$25,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by examination in all capacities. The sanctions were based on findings that Lee failed to respond to NASD requests for information. **(NASD Case #C10980070)**

John Louis Lembo, III (CRD #1920358, Registered Representative, Ft. Lauderdale, Florida) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lembo consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C07990015)**

Anthony Joseph Maglietta (CRD #2919710, Registered Representative, Parlin, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$20,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Maglietta consented to the described sanctions and to the entry of findings that he forged the signature of a public customer on annuity applications, annuity disclosure statements, and a "Confidential Investor Profile," enabling him to purchase an annuity on behalf of the customer without her consent and authority. **(NASD Case #C9B990021)**

Marlene Marcello McKenna (CRD #832452, Registered Principal, Providence, Rhode Island)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was fined \$450,000, barred from association with any NASD member in any capacity, and ordered to pay \$86,710, plus interest, in restitution to public customers. Without admitting or denying the allegations, McKenna consented to the described sanctions and to the entry of findings that she converted and misappropriated at least \$86,710 in cash proceeds from variable life insurance policies of public customers for her own use and benefit. **(NASD Case #C11990029)**

David Len Mitchell (CRD #2508455, Registered Representative, Orrville, Ohio) was fined \$25,000 and barred from association with the NASD in any capacity. The sanctions were based on findings that Mitchell failed to respond to NASD requests for information relating to his termination. **(NASD Case #C8B990006)**

Michael Kemp Murphy (CRD #603386, Registered Principal, Spring, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Murphy consented to the described sanctions and to the entry of findings that he engaged in an outside business activity in that he solicited individuals to invest funds with a non-registered entity and failed to provide written notice of these business activities to his member firm. **(NASD Case #C06990010)**

Alex Ezell Neely (CRD #1240671, Registered Principal, Casper, Wyoming) submitted a Letter of

Acceptance, Waiver, and Consent pursuant to which he was fined \$676,930 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Neely consented to the described sanctions and to the entry of findings that he received checks from a public customer totaling \$115,386 to be used for the purchase of securities. The findings also stated that Neely deposited the checks into his personal bank account, converted the funds to his own use, and failed to invest the proceeds as directed by the customer. **(NASD Case #C3A990047)**

John Patrick Nichols (CRD #2188710, Registered Representative, Fort Lauderdale, Florida) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Nichols consented to the described sanctions and to the entry of findings that he effected transactions in the securities account of a public customer, without the customer's prior knowledge or authorization. **(NASD Case #C07990025)**

AnnMarie Noel (CRD #2416716, Registered Representative, Astoria, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Noel consented to the described sanctions and to the entry of findings that she fraudulently accepted compensation in the form of cash or free or deeply discounted stock or stock warrants from or on behalf of various companies in return for recommending stocks to her brokerage firm customers without

informing the customers of such compensation. The findings also stated that her knowing failure to disclose the compensation was a material omission made with the intent to deceive her customers. In addition, on several occasions, Noel misrepresented who she was when she spoke to customers over the telephone. **(NASD Case #C10990118)**

Domingos Alexander Noya (CRD #1398190, Registered Representative, Islip Terrace, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$2,500, suspended from association with any NASD member in any capacity for 10 business days, and ordered to requalify by exam as an investment representative. If Noya fails to requalify within 90 days, he will be suspended from association with any member firm in that capacity until the exam is successfully completed. Without admitting or denying the allegations, Noya consented to the described sanctions and to the entry of findings that he guaranteed public customers against loss in a variable annuity account although no payment or transactions resulted. **(NASD Case #C10990105)**

Angel L. Ocasio-Velez (CRD #2455345, Registered Principal, San Juan, Puerto Rico) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Ocasio-Velez consented to the described sanctions and to the entry of findings that he forged the signatures of public customers on "Policy Change Applications," without their authorization and consent. **(NASD Case #C07980061)**

Glenn Gerald Opfer (CRD #1049487, Registered Representative, Littleton, Colorado) submitted an Offer of Settlement pursuant to which he was fined \$30,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Opfer consented to the described sanctions and to the entry of findings that he opened a securities account in his name at a member firm and failed to notify the firm, in writing, that he was employed with another member firm. The findings also stated that Opfer failed to notify his employing firm that he had opened the account. In addition, Opfer failed to respond to NASD requests for information and documentation. **(NASD Case #C3A990037)**

Kevin Lee Otto (CRD #1929973, Registered Representative, Milwaukee, Wisconsin) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Chicago DBCC decision. The sanctions were based on findings that Otto received \$22,000 from a public customer and used the funds for some purpose other than for the benefit of the customer, without the customer's knowledge or authorization, until he returned the funds to the customer at a later date.

Otto has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C8A970015)**

Edward Andrew Perez (CRD #1690751, Registered Representative, Boynton Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD

member in any capacity. Without admitting or denying the allegations, Perez consented to the described sanctions and to the entry of findings that he knowingly sold stolen laptop computers to co-workers while on the premises of his member firm. **(NASD Case #C9B990016)**

Erwin Allen Porges (CRD #1222183, Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Porges consented to the described sanctions and to the entry of findings that he caused securities to be purchased in a joint account of public customers even though such purchase had not been authorized by the customers and he failed to respond to NASD requests to provide testimony. **(NASD Case #C8A990056)**

Brian Prendergast (CRD #825814, Registered Principal, Englewood, Colorado) was censured and barred from association with any NASD member in any capacity. The NAC affirmed the sanctions following appeal of a Denver DBCC decision. The sanctions were based on findings that Prendergast invested funds from the sale of securities offered pursuant to a private placement memorandum in a manner that was inconsistent with representations in the memorandum and solicited certain securities transactions using a private placement memorandum that contained material misrepresentations and omissions, and distributed communications to purchasers that failed to conform to NASD general and specific standards for sales literature. In addition, Prendergast caused an advertisement to be placed in a newspaper that constituted a general solicitation prohibited by

the SEC and the NASD. Prendergast also failed to provide proper notice to his member firm that he had opened an account with another firm and failed to inform the executing member firm that he was associated with another firm. Moreover, Prendergast failed to respond to NASD requests for information and to provide on-the-record testimony.

Prendergast has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C3A960033)**

John David Roman (CRD #2251851, Registered Principal, Bridgeport, Connecticut) was ordered to disgorge \$8,500, plus interest, and barred from association with any NASD member in any capacity with the right to re-apply after one year provided that any such application be accompanied by credible evidence that he no longer has an alcohol abuse problem and that he has maintained his sobriety during, at a minimum, the one-year period immediately before the filing of the application. The sanctions were based on findings that Roman "parked" his registrations as a general securities principal and general securities representative at a member firm. **(NASD Case #C10980128)**

Steven Richard Rosenblueth a.k.a Steven Rosen (CRD #2418678, Registered Representative, Manhasset Hills, New York) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 45 business days. Without admitting or denying the allegations, Rosenblueth consented to the described sanctions and to the entry of findings that he executed the purchase of warrants in a public

customer's account without the customer's knowledge, authorization, or consent and failed to respond timely to NASD requests for information. **(NASD Case #C10990083)**

Darrell Scott Rosenthal (CRD #1702839, Registered Representative, Bellaire, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for seven business days. Without admitting or denying the allegations, Rosenthal consented to the described sanctions and to the entry of findings that he, acting in his capacity as a registered representative for his member firm, intentionally caused transactions to The Nasdaq Stock Market® to be executed and reported in his own account, affecting the reported last sale prices in the securities. The findings also stated that Rosenthal marked opening order tickets in his own account "sell close" when such orders established opening short positions and subsequently, on the same days, marked corresponding order tickets in his own account "buy open" when such orders closed out the previously established short positions. **(NASD Case #CMS990092)**

James Sylvester Ruscoe (CRD #2091493, Registered Representative, Peru, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$1,260,000, barred from association with any NASD member in any capacity, and ordered to pay \$249,874.18, plus interest, in restitution. Without admitting or denying the allegations, Ruscoe consented to the described sanctions and to the entry of findings that he improperly converted \$249,874.18 belonging to public customers for his own use and benefit. **(NASD Case**

#C11990030)

David Leland Sagors (CRD #1013621, Registered Principal, Sandy, Utah) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$7,500, jointly and severally, with a member firm, and suspended from association with any NASD member in the capacity of financial and operations principal for three business days. Without admitting or denying the allegations, Sagors consented to the described sanctions and to the entry of findings that a member firm, acting through Sagors, conducted a securities business while failing to maintain the minimum required net capital. The findings also stated that the firm, acting through Sagors, filed NASD FOCUS Part II Reports that materially misstated the firm's net capital. **(NASD Case #C3A990045)**

Douglas Frank Schwartz (CRD #2059820, Registered Representative, Fort Meyers, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$50,000, barred from association with any NASD member in any capacity, and required to pay \$150,000, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Schwartz consented to the described sanctions and to the entry of findings that he improperly misused and borrowed public customer funds totaling \$150,000. **(NASD Case #C11990031)**

Gregory John Shultis (CRD #1934789, Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$11,340, barred from association with any NASD member in any capacity, and required to pay \$268 in restitution to his former member firm. Without

admitting or denying the allegations, Shultis consented to the described sanctions and to the entry of findings that he received a \$400 check from a public customer for financial planning services, failed to give the check to his member firm, and, instead, deposited the check in his personal bank account, using the full amount for his own benefit. **(NASD Case #C8B990024)**

Stephen Kevin Sides (CRD #2376287, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for one year, and barred from association with any NASD member in a principal capacity. Without admitting or denying the allegations, Sides consented to the described sanctions and to the entry of findings that he acted in the capacity of a general securities principal while unregistered with the NASD. **(NASD Case #C10990116)**

Dila D. Skrelja, Jr. (CRD #1819198, Registered Principal, Glen Oaks, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$5,000, and suspended from association with any NASD member in any supervisory capacity for 10 business days. Without admitting or denying the allegations, Skrelja consented to the described sanctions and the entry of findings that she failed to properly enforce her supervisory responsibilities concerning her member firm's registered representatives. **(NASD Case #C10990109)**

Robert Albert Skulman (CRD #1670270, Registered Representative, Ft. Smith, Arkansas) was censured, fined \$114,131.62, and barred from association with any NASD

member in any capacity. The sanctions were based on findings that Skulman effected unauthorized transactions in the accounts of public customers, made unsuitable recommendations to the customers, and submitted false new account forms for the customers, without their knowledge or consent. **(NASD Case #C05980048)**

Cary Steven Sprung (CRD #1526858, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sprung consented to the described sanctions and to the entry of findings that, without the consent of his member firm and his member firm's clearing firm, he utilized the clearing firm's stationery and an account statement to fraudulently depict assets in an account bearing Sprung's name in order to collateralize a loan. **(NASD Case #C10990122)**

James Mitchell Vaughn (CRD #2680249, Registered Representative, Bellport, New York) submitted an Offer of Settlement pursuant to which he was fined \$40,000, suspended from association with any NASD member in any capacity for 21 months, and required to pay \$121,202 in restitution to public customers. Without admitting or denying the allegations, Vaughn consented to the described sanctions and to the entry of findings that he made material misrepresentations, omitted to disclose material facts, predicted the future prices of speculative securities in connection with the offer and sale of securities, effected a transaction in a customer account without having obtained the customer's prior authorization, and failed to follow customer

instructions to sell securities. **(NASD Case #C3A990004)**

Dennis Anthony Wallot (CRD #1592875, Registered Representative, Westland, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$6,960, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wallot consented to the described sanctions and to the entry of findings that he engaged in private securities transactions for compensation and failed and neglected to give prior written notice to, or receive prior written approval from, his member firm. **(NASD Case #C8A990062)**

Individual Fined

Harpel Wood Keller (CRD #2047489, Registered Representative, Portland, Oregon) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$12,000. Without admitting or denying the allegations, Keller consented to the described sanctions and to the entry of findings that, while registered with a member firm, he accepted powers of attorney from clients and prospective clients of his member firm, in connection with accounts these individuals had opened with another member firm. The NASD determined that, pursuant to these powers of attorney, Keller recommended and gave orders for trades in these accounts, and engaged in this activity without providing oral or written notice to his member firm. **(NASD Case #C3B990027)**

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been

appealed to or called for review by the NAC as of August 13, 1999. The findings and sanctions imposed in the decisions 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*.

Bradford Lee Brinton (CRD #2572055, Registered Representative, St. Joseph, Missouri) was fined \$118,476.15 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brinton forged the signature of a public customer on a dividend check for \$1,695.23 payable to the customer and deposited the funds into his personal bank account, converting the funds to his own use and benefit.

Brinton has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C04990005)**

Gordon Kerr (CRD #268444, Registered Representative, Walnut, California) was fined \$10,000, suspended from association with any NASD member in any capacity for 45 days, and barred from the NASD in a principal capacity. The sanctions were based on findings that Kerr functioned as a securities principal while he was ineligible to act in that capacity.

Kerr has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C02980051)**

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.

Charles Douglas Gulley, Jr. (CRD #1320916, Registered Representative, Ocean Springs, Mississippi) was named as a respondent in an NASD complaint alleging that he received checks from public customers totaling \$1,465,138.62 for the purpose of investing in securities, failed and neglected to execute the purchases of securities on the customers' behalf, and instead, deposited the funds in an account that he controlled, ultimately retaining the sum of \$1,294,189.92 which he converted to his own use and benefit, without the customers' knowledge and consent. The complaint also alleges that Gulley received a check in the amount of \$5,000 from a public customer for the purpose of paying a premium on a life insurance policy, failed and neglected to pay the insurance premium, and instead, deposited the check in an account that he controlled, converting the \$5,000 to his own use and benefit, without the customer's knowledge or consent. The complaint also alleges that Gulley failed to respond completely to NASD requests for information. **(NASD Case #C05990034)**

John Joseph Kenny (CRD #1001752, Registered Principal, St. Louis, Missouri) was named as a respondent in an NASD complaint alleging that he intentionally or recklessly employed devices to defraud public customers and engaged in a course of business that operated as a fraud or deceit upon the customers

by initiating, or allowing an unregistered individual and/or his associates to initiate, unsuitable margin transactions in public customers' securities accounts. The complaint also alleges that Kenny recklessly engaged in a course of conduct to allay any concerns on the part of the customers as to impropriety in the trading of the customers' accounts by the use of material omissions and written communications which misstated and/or omitted material facts. The complaint also alleges that Kenny, without written instructions and/or the knowledge or consent of the customer, caused \$1.1 million to be wired from a public customer's account to an account at another member firm, thus facilitating an unauthorized transfer of funds. **(NASD Case #C04990035)**

Peter S. Lau (CRD #866720, Registered Representative, Edison, New Jersey) was named as a respondent in an NASD complaint alleging that he induced a public customer to effect transfers of funds totaling \$75,114 from her bank account to his personal bank account by falsely representing to her that such funds would be used to purchase an investment, then converted the funds to his own use and benefit by using them to pay off gambling debts. The complaint also alleges that Lau failed to respond to NASD requests for information. **(NASD Case #C10990119)**

Joseph John Mandaro (CRD #2559154, Registered Representative, Coral Springs, Florida) was named as a respondent in an NASD complaint alleging that he knowingly, willfully, or recklessly engaged in a device, scheme, or artifice to defraud and mislead public customers into investing in securities by participating in a "boiler room" operation which included the use of high pressure sales tactics and misleading statements and omissions. The complaint also

alleges that Mandaro made specific price predictions about speculative securities being sold, made predictions without having an adequate, accurate, or reasonable basis in fact, and failed to disclose any risk or negative information in security recommendations. The complaint also alleges that Mandaro engaged in unauthorized trading in customer accounts, without having discretionary trading authority for the accounts, and refused or failed to execute customer sell orders. **(NASD Case #CAF990011)**

John William McCall, Jr. (CRD #824736, Registered Representative, Walnut Creek, California) was named as a respondent in an NASD complaint alleging that he recommended to a public customer purchases and redemptions of mutual funds without having reasonable grounds for believing that such transactions were suitable for the customer in view of the frequency of the transactions, the type of investment being recommended to be redeemed or purchased, and the customer's financial situation and needs. **(NASD Case #C01990013)**

Michael William O'Donnell (CRD #1254156, Registered Principal, Northridge, California) was named as a respondent in an NASD complaint alleging that he engaged in private securities transactions without providing prior written notice to his member firms describing the proposed transactions and his proposed role therein. The complaint also alleges that O'Donnell, in connection with the sale of interests to public customers, made material misrepresentations and omissions in order to induce the customers to invest. **(NASD Case #C02990047)**

Jamie Patrash (CRD #2744189, Registered Representative, Jacksonville, Florida) was named as a respondent in an NASD complaint alleging that he received a total of \$851 in the form of personal checks from public customers for investment purposes, and checks and cash from individuals seeking to become associated with his member firm. The complaint alleges that Patrash altered the checks by writing his name over the member firm's name, presented the altered checks for payment, endorsed the checks, and converted the proceeds from the checks and the cash for his own use and benefit. **(NASD Case #C07990052)**

Merlin Blaine Riley III (CRD #1318026, Registered Principal, Dana Point, California) was named in an NASD complaint alleging that he executed purchase and/or sale transactions in various securities in the accounts of public customers without their authorization. The complaint also alleges that Riley executed purchase and sale transactions for the account of a public customer pursuant to oral discretionary authority but without the requisite written authorization from the customer or the requisite permission of his member firm. **(NASD Case #C02990050)**

Jay Steven Robinson (CRD #833292, Registered Principal, Wichita, Kansas) was named as a respondent in an NASD complaint alleging that he received checks totaling \$20,000 from a public customer for investment purposes. The complaint alleges that Robinson did not invest the monies as instructed by the customer, and instead, without the knowledge or consent of the customer, converted the proceeds of the checks to his

own use and benefit and returned only \$1,473.45 to the customer. **(NASD Case #C04990036)**

Michael Sean Stone (CRD #2370650, Registered Representative, St. Paul, Minnesota) was named as a respondent in an NASD complaint alleging that he affixed the signature of a public customer to a margin agreement without the customer's knowledge or consent. The complaint also alleges that Stone placed a good-till-canceled limit order to purchase shares of a stock in a customer's account without the customer's knowledge or consent. **(NASD Case #C04990037)**

Walter Mark Wolff (CRD #1579100, Registered Representative, Wilmington, Delaware) was named as a respondent in an NASD complaint alleging that he effected transactions in the securities account of a public customer, without having prior authorization to effect such transactions for the account. **(NASD Case #C9A990038)**

Suspensions Lifted

The NASD has lifted the suspension from membership on the dates shown for the following firm because it has complied with formal written requests to submit financial information.

CDH Capital Corporation, Irving, Texas (July 21, 1999)

RFCA Financial Services, Torrance, California (July 16, 1999)

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