

Disciplinary Actions

Disciplinary Actions Reported For August

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, August 16, 1999. The information relating to matters contained in this *Notice* is current as of the end of July 21, 1999.

Firm Expelled

Block Trading, Inc. (CRD #36666, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and expelled from NASD membership. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in securities business when its net capital was below the required minimum and, acting through certain of its representatives, distributed a private placement memorandum to investors that contained false and misleading financial information and provided false and misleading information to prospective investors of the firm. The findings also stated that the firm, acting through certain representatives, failed to prepare and maintain accurate books and records in that false and misleading entries were made to the firm's general ledger and false and inaccurate FOCUS Part II filings were made in connection with the entries to conceal the firm's negative net capital position. The findings also stated that the firm, acting through certain representatives responsible for accounting and financial reporting, failed and neglected to provide notification that its net capital was

below the required minimum.
(NASD Case #C05990031)

Firm And Individual Barred Or Suspended

La Jolla Capital Corporation n.k.a. Pacific Cortez Securities Incorporated (CRD #24341, San Diego, California) and **Harold Bailey Gallison (CRD #1040211, Registered Principal, Las Vegas, Nevada)**. The firm and Gallison were censured, barred from engaging in penny stock transactions in any capacity, fined \$297,380, jointly and severally, fined \$50,000 each individually, and required to present proof of restitution or rescission to their damaged customers, jointly and severally. Gallison was also barred in all principal and supervisory capacities, and suspended in all capacities for 30 days. The sanctions were based on findings that the firm and Gallison violated the Securities and Exchange Commission's (SEC) penny stock rules by failing to make adequate disclosure to their customers who purchased penny stocks. In addition, the firm and Gallison failed to establish, maintain, and enforce written procedures reasonably designed to detect and prevent violations of the penny stock rules.
(NASD Case #C02960001)

Firms Fined, Individuals Sanctioned

Patterson Travis, Inc. (CRD #16540, Woodmere, New York), **David Thomas Travis (CRD #448950, Registered Principal, Englewood, Colorado)**, and **Judah Liev Wernick (CRD #1633006, Registered Principal, Woodmere, New York)** submitted an Offer of Settlement pursuant to which the firm, Travis, and Wernick were censured and fined \$10,000, jointly and severally, and ordered to comply with undertakings which include, among other things,

submitting a written agreement to the NASD. The written agreement will clearly delineate all of the terms of an arrangement including, but not limited to, a detailed list of expenses, by category, which are the obligation of the firm and those which are the obligation of Wernick or some other entity of the firm. The agreement will also permit the NASD to review the financial documentation and information concerning the payment of expenses of the entity and/or the individual paying the firm's expenses for the New York office. The firm and Wernick were fined an additional \$30,000, jointly and severally, and Wernick was fined an additional \$20,000, suspended from association with any NASD member in any capacity for 10 business days, and suspended from association with any NASD member in any managerial or supervisory capacity for 60 days thereafter. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, directly and acting through Travis and Wernick, received payments for the purchase of securities from public customers prior to the effective date of an initial public offering. The findings also stated that the firm, directly and acting through Wernick, failed to execute promptly customer orders to purchase or sell shares of common stock and failed to promptly and/or accurately report its transactions in the stock. **(NASD Case #C8A980095)**

Sedgwick Investments, Inc. (CRD #35045, Memphis, Tennessee), Michael Joseph Reilly (CRD #2150716, Registered Principal, Spokane, Washington), Pattie Jane Robinson (CRD #2484162, Registered Representative, Memphis, Tennessee), and William Ellett Allen (CRD #2916388, Associated Person, Memphis, Tennessee) submitted a

Letter of Acceptance, Waiver, and Consent pursuant to which the firm and Reilly were censured and fined \$12,500, jointly and severally, and Reilly was suspended from association with any NASD member in any capacity for two weeks. Robinson and Allen were each censured, fined \$5,000, and suspended from association with any NASD member in any capacity for two weeks. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that while associated with the firm, Robinson was actively engaged in the management of the firm's securities business, prior to her becoming registered with the NASD in any principal capacity and engaged in the firm's securities business prior to becoming registered in any capacity with the NASD. The findings also stated that Allen was associated with the firm and was actively engaged in the management of the firm's securities business as a financial and operations principal prior to his becoming registered with the NASD in the appropriate capacity, and that the firm, acting through Reilly, its president, failed to ensure that all persons who were actively engaged in the firm's securities business, or in the management thereof, were properly registered with the NASD. In addition, the NASD determined that the firm failed to establish, maintain, and enforce supervisory procedures that would ensure the proper registration of persons actively engaged in the firm's securities business, or in the management thereof, and the firm, acting through Reilly, failed and neglected to complete a training needs analysis and to develop a written formal training plan concerning the Firm Element of the Continuing Education Program. **(NASD Case #C05990025)**

Firms And Individuals Fined

National Securities Corporation (CRD #7569, Seattle, Washington) and Steven Alan Rothstein (CRD #818658, Registered Principal, Wilmette, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$51,000, and Rothstein was censured and fined \$30,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm sold shares of an initial public offering that traded at a premium in the secondary market (a "hot issue") to investment partnerships and corporations and other like accounts without obtaining information on all persons having a beneficial interest in the accounts or obtaining assurances of counsel or accountant ensuring no restricted individuals had a beneficial interest in the accounts. In addition, the NASD found that the firm, acting through Rothstein, granted selling concessions, discounts, or other allowances to public customers involved in initial public offerings and permitted certain customers to obtain prices below the public offering price. The NASD also found that the firm reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable securities laws and regulations regarding trade reporting, failed to accept transactions within 20 minutes of the trade being reported to ACT, and failed to establish, maintain, and enforce written procedures reasonably designed to achieve compliance with applicable securities laws and regulations. **(NASD Case #C3B990020)**

Orenstein Securities, Inc. (CRD #26511, Milwaukee, Wisconsin) and William Henry Orenstein (CRD #2057208, Registered Principal, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that in connection with the sale of limited partnership interests, the firm, acting through Orenstein, failed to specify in the private placement memoranda a time by which all of the units had to be sold, failed to return investors' funds or take other appropriate action when all units were not sold by the stated date, withdrew funds from an account prior to the required number of units being sold in bona fide transactions, and failed to escrow funds properly. Moreover, the NASD found that the firm, acting through Orenstein, failed to disclose on a private placement memorandum the maximum number of units that Orenstein, one of the general partners, could purchase, failed to specify on another memorandum the maximum number of units Orenstein could purchase and the amount of supplemental financing he could secure in the event that all units were not sold. In addition, the firm, acting through Orenstein, filed inaccurate FOCUS IIA reports with the NASD in that, among other things, the reports overstated the firm's excess net capital. **(NASD Case #C8A990048)**

Thomas F. White & Co., Incorporated (CRD #7661, San Francisco, California), Robert Thomson Angle (CRD #811495, Registered Principal, San Francisco, California), and Peter William Shea (CRD #420778, Registered Principal, Alameda, California) submitted an Offer of Settlement pursuant to which they

were censured and fined \$20,000, jointly and severally, and the firm and Angle were separately fined \$30,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Angle and Shea, failed to establish and implement adequate written supervisory procedures in order to detect and prevent unsuitable transactions with respect to the accounts of public customers and to supervise an individual's activities in connection with those accounts. The findings also stated that the firm, acting through Angle, entered into settlement agreements with customers that contained confidentiality clauses which prohibited or discouraged those customers from discussing the settlements with or disclosing the underlying facts to the NASD and other regulators. **(NASD Case #C01980016)**

Firms Fined

Berthel Fisher & Company Financial Services, Inc. (CRD #13609, Cedar Rapids, Iowa) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report written customer complaints received as required by the NASD, and failed to report specific disclosure events within 10 business days to the NASD. The findings also stated that the firm failed to file amended Forms U-4 and U-5 for the individuals subject to the complaints within 30 days of becoming aware of the facts or circumstances giving rise to a need for the amendments. **(NASD Case #C04990026)**

Donaldson, Lufkin & Jenrette Securities Corp. (CRD #7554, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$11,000. 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 Fixed Income Pricing SystemSM (FIPS[®]) in violation of applicable securities laws and regulations regarding transaction reporting. 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 relating to transaction reporting of high yield corporate bonds to the NASD. **(NASD Case #CMS990063)**

Johnson Rice & Company L.L.C. (CRD #19524, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$7,500 jointly and severally with an individual, and fined an additional \$18,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to require all covered employees to complete the Firm Element of the Continuing Education requirement; failed to conduct an annual compliance meeting; and failed to establish, maintain, and enforce proper supervisory procedures governing contingency offerings, ACT trade reporting, locked and crossed market procedures, and harassment of traders. The findings also stated that the firm failed to indicate on limit order tickets the order terms and conditions to reflect that they were "not held" orders, failed to designate trades as short sales by including the appropriate .S modifier, and failed to denote on the firm's books and records an affirmative determination that the

subject securities could be borrowed. Furthermore, the NASD determined that the firm reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting, failed to designate securities trades as late, and failed to report Nasdaq National Market® securities transactions accurately. The NASD also determined that the firm, in connection with a contingency offering, failed to establish a proper bank escrow account and continued to sell partnership interests after the offering termination date. **(NASD Case #C05990022)**

McDonald & Company Securities, Inc. n.k.a. McDonald Investments Inc. (CRD #566, Cleveland, Ohio) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$7,500, and required to provide restitution, plus interest, of \$7,931.40 to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it sold shares of securities to public customers and, at the time that the transactions were executed, failed to use reasonable diligence to ascertain the best inter-dealer market for the securities so that the resultant prices to the customers were as favorable as possible under prevailing market conditions. **(NASD Case #CMS990064)**

Security Dealers Guild, Inc. (CRD #28437, Tarrytown, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted order tickets that either contained inaccurate time stamps or no time stamps whatsoever, failed to include the appropriate notation as

to the underlying accounts into which the trade was to be divided on order tickets, and failed to include a notation as to whether the trade, from the customer's viewpoint, was being done "long" vs. "short." The findings also stated that the firm failed to include an affirmative determination as to the firm's ability to borrow the underlying security on order tickets for short sales, failed to include the trade price reported to Nasdaq in customer confirmations for trades done on a risk basis, and the difference, if any, between the trade reported price to Nasdaq and the net price to the customer in the transaction. Furthermore, the NASD determined that the firm failed to include the amount of markup, markdown, or similar remuneration on confirmations for trades done on a riskless basis, or disclosed an inaccurate amount of markup/markdown to the customer, and had no written supervisory procedures in place to address the topics of trade reporting, marking of customer sell order tickets "long" vs. "short," and making appropriate affirmative determination and denoting same on order tickets. **(NASD Case #C10990103)**

Tucker Anthony Incorporated (CRD #837, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$16,000, and ordered to pay restitution and interest of \$497.09 to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to ACT and SelectNetSM in violation of applicable securities laws and regulations regarding trade reporting, customer orders, and limit orders. The firm failed to use reasonable diligence to ascertain the best inter-dealer markets for securities so that the resultant prices to the customers were as favorable as possible under

prevailing market conditions and failed to display immediately customer limit orders when the orders were at a price that would have improved the firm's bid or offer in each security related to the orders. 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 relating to trade reporting, ACT rules, locked and crossed markets, the use of the Small Order Execution SystemSM (SOESSM), anti-competitive practices, the Limit Order Protection Interpretation, and the SEC's Order Handling Rules. **(NASD Case #CMS990055)**

Individuals Barred Or Suspended

Solomon Jack Algazi (CRD #2162632, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for 18 months. Without admitting or denying the allegations, Algazi consented to the described sanctions and to the entry of findings that, during the course of an on-the-record interview, he failed to respond in a timely and complete manner with respect to questions asked of him by the NASD concerning his employment with a member firm. **(NASD Case #C10990104)**

Nicholas Mario Antonelli (CRD #2459572, Registered Representative, Hauppague, New York) and **Alexander Velez (CRD #2366712, Registered Representative, Brentwood, New York)** submitted an Offer of Settlement pursuant to which Antonelli was censured, fined \$7,000, suspended from association with any NASD member

in any capacity for 45 days, and required to pay \$2,000, plus interest, in restitution to a public customer; Velez was censured, fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and required to pay restitution in the amount of \$2,000, plus interest, to the customer. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Antonelli and Velez failed to obey public customers' instructions to sell securities. The findings also stated that Antonelli engaged in unauthorized transactions, failed to obey his customer's instructions to sell securities, and prepared inaccurate books and records. In addition, Velez prepared inaccurate Forms U-4. **(NASD Case #C10980093)**

Ivan Douglas Bauer (CRD #1715502, Registered Representative, Penryn, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$52,900, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bauer consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notification to, and obtaining approval from, his member firm. **(NASD Case #C01980021)**

Patrick Albert Beadle (CRD #2707932, Registered Representative, Oakland, California) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Beadle failed to respond to NASD requests for information. **(NASD Case #C01980019)**

Nicholas Bosco (CRD #2176953, Registered Principal, Colts Neck, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$12,500, suspended from association with any NASD member in any capacity for 60 days, barred from association with any NASD member in any principal capacity, and required to pay \$40,687 in restitution, jointly and severally. Without admitting or denying the allegations, Bosco consented to the described sanctions and to the entry of findings that a member firm, acting through Bosco, effected transactions in common stock as principal at prices that were unfair and unreasonable taking into consideration all of the relevant factors. The findings also stated that the firm, acting through Bosco, violated terms of its restrictive agreement by engaging in "penny stock" transactions; conducting business in a manner that required it to maintain net capital of not less than \$100,000; participating in "firm-commitment" underwritings; and effecting more principal trades than permitted in the agreement. **(NASD Case #C9A990033)**

Jeffrey Stuart Brewer (CRD #2790875, Registered Representative, Princeton, New Jersey) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brewer failed to respond to NASD requests to testify and to produce documents. **(NASD Case #CAF980097)**

David Briggs (CRD #1275493, Registered Representative, Hollywood, Florida) 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 18 months, and required to disgorge \$7,659.14 in referral fees to public customers. Without

admitting or denying the allegations, Briggs consented to the described sanctions and to the entry of findings that he engaged in private securities transactions. According to the findings, Briggs failed to provide written notice to his member firm that he was referring customers who sought to purchase shares of securities away from the firm and was being compensated for the referrals, nor did he obtain approval from his member firm for these activities. **(NASD Case #C07990040)**

Bartholomew Frank Bruno (CRD #2163217, Registered Principal, Forest Hills, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$12,500, suspended from association with any NASD member in any capacity for 60 days, barred from association with any NASD member in any principal capacity, and ordered to pay restitution of \$40,687, jointly and severally, to public customers. Without admitting or denying the allegations, Bruno consented to the described sanctions and to the entry of findings that a member firm, acting through Bruno, effected transactions in common stock as principal at prices that were unfair and unreasonable taking into consideration all of the relevant factors. The findings also stated that the firm, acting through Bruno, violated terms of its restrictive agreement by engaging in "penny stock" transactions; conducting business in a manner that required it to maintain net capital of not less than \$100,000; participating in "firm-commitment" underwritings; and effecting more principal trades than permitted in the agreement. **(NASD Case #C9A990031)**

Luis Bulas, Jr. (CRD #1684464, Registered Principal, Coral Gables, Florida) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were

based on findings that Bulas failed to respond to NASD requests for information. **(NASD Case #C07990005)**

Timothy Robert Calkins, Jr. (CRD #2469112, Registered Representative, Tobyhanna, Pennsylvania) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Calkins failed to respond to NASD requests for information. **(NASD Case #C9A990011)**

Carmen Robert Chimera (CRD #2585370, Registered Representative, Rockville, Maryland) 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 14 days, which shall be deemed to have been served by virtue of the 14-day suspension imposed against him by his member firm. Without admitting or denying the allegations, Chimera consented to the described sanctions and to the entry of findings that he allowed another registered representative to sign variable annuity applications as the registered representative of record, falsely indicating that the representative had sold the variable annuities, when, in fact, they had been sold by Chimera. **(NASD Case #C9B990010)**

Paul Joseph Cilmi (CRD #2138510, Registered Principal, Brooklyn, New York) was censured, fined \$50,000, barred from association with any NASD member in any capacity and ordered to disgorge earnings in the amount of \$207,006.84. The sanctions were based on findings that Cilmi had an impostor take the Series 24 qualifications exam on his behalf. Cilmi also failed to appear for an on-the-record interview. **(NASD Case #C10980123)**

Jeff Lynn Clark (CRD #2195163, Registered Representative, Wyandotte, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$52,900, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Clark consented to the described sanctions and to the entry of findings that he received monies totaling \$6,580 from public customers for the purpose of paying insurance premiums, and checks totaling \$2,000 from a public customer that were to be deposited in her fixed annuity account. The NASD determined that Clark failed to follow the customers' instructions, and without the customers' knowledge or authorization, used the funds for his own benefit or for some purpose other for than the benefit of the customers. **(NASD Case #C8A990051)**

Cara Wagner Clarke (CRD #2871723, Registered Representative, Maysville, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$13,250, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Clarke consented to the described sanctions and to the entry of findings that she received \$750 from a public customer for the purpose of depositing \$100 in the customer's Roth Individual Retirement Account and \$650 in the customer's cash account. The NASD found that Clarke failed and neglected to deposit the \$650 in the cash account and, instead, deposited the amount in an account that she controlled, thereby converting the \$650 to her own use and benefit, without the customer's knowledge or consent. **(NASD Case #C05990020)**

Thomas John Dalton (CRD #1182680, Registered Principal,

Levittown, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$40,000, suspended from association with any NASD member in any capacity for three months, required to requalify by exam for the Series 7, 24, and 63 registrations before again acting in those capacities, and required to qualify by exam for the Series 55 registration before acting in that capacity. In addition, Dalton must cooperate with the NASD in connection with its prosecution of a formal action to include meeting with the staff and preparing for testimony, and appearing and testifying truthfully in that action. Without admitting or denying the allegations, Dalton consented to the described sanctions and to the entry of findings that, acting on behalf of his member firm, he charged public customers markups and markdowns greater than five percent above his firm's contemporaneous cost, totaling approximately \$457,764.59. The findings also stated that Dalton, acting on behalf of his firm, charged public customers markups or markdowns greater than 10 percent above his firm's contemporaneous cost, totaling approximately \$282,740.64. Furthermore, the NASD found that, in connection with transactions, Dalton failed to disclose to the customers that the prices at which the firm was engaging in these transactions with its customers were not reasonably related to the prevailing market price of these securities; effected transactions that were unfair and unreasonable taking into consideration all of the relevant factors; induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances; made untrue statements of material fact, omitted to state necessary material facts; and engaged in acts, practices, or a course of business which operated as a fraud or deceit upon persons. **(NASD Case #CAF990002)**

Bradly J. Denham (CRD #2727078, Registered Representative, Billings, Montana) 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, Denham 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 #C3B990023)**

John Steven DeSane (CRD #2653943, Registered Principal, Mt. Sinai, New York) was censured, fined \$175,880, barred from association with any NASD member in any capacity, and ordered to pay restitution to public customers in the total amount of \$57,748.25, plus interest. The sanctions were based on findings that DeSane made material misrepresentations and omissions in order to induce public customers to purchase securities and made fraudulent price predictions in connection with his recommendations to, and solicitation of, customers to purchase securities. In addition, DeSane effected transactions in the account of a public customer without the prior authorization of the customer and failed to follow customer instructions to execute a sell order. **(NASD Case #C3A980071)**

Thomas Anthony DiEdwardo, Sr. (CRD #2524146, Registered Representative, Kenilworth, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$28,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$6,000 to the NASD. Without admitting or denying the allegations, DiEdwardo

consented to the described sanctions and to the entry of findings that, while associated with a member firm, he placed telephone calls to a public customer during which he used obscene language. The findings also stated that DiEdwardo arranged to have an impostor take the Series 7 qualification exam on his behalf. **(NASD Case #C10990090)**

John Philip DiGiacomo (CRD #2023333, Registered Representative, New York, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, barred from association with any NASD member in any principal or supervisory capacity, barred from association with any NASD member in any capacity with the right to reapply for association with any NASD member in any capacity (other than any principal or supervisory capacity) after a period of two years, and ordered to make restitution to his former member firm in the initial principal amount of \$44,258, plus interest. Without admitting or denying the allegations, DiGiacomo consented to the described sanctions and to the entry of findings that, as proprietary trader for his member firm and in an effort to conceal substantial net short positions in his trading account, DiGiacomo created and submitted fictitious buy order tickets purporting to cover approximately the net short positions. **(NASD Case #C10980046)**

Anthony Frederick DiMaria (CRD #2286669, Registered Principal, Shirley, New York) 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 10 days. Without admitting or denying the allegations, DiMaria consented to the described sanctions and to the entry of

findings that a member firm, acting through DiMaria, violated the terms of its restrictive agreement by engaging in "penny stock" transactions; conducting business in a manner that required it to maintain net capital of not less than \$100,000; participating in "firm-commitment" underwritings; and effecting more principal trades than permitted in the agreement. **(NASD Case #C9A990028)**

Timothy James Ennis (CRD #837093, Registered Representative, New Hope, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Ennis consented to the described sanctions and to the entry of findings that he recommended and engaged in purchase and sale transactions in the account of a public customer and did not have reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customer on the basis of her financial situation, investment objectives, and needs. The findings also stated that Ennis exercised discretion in the customer's account without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm. **(NASD Case #C9A990034)**

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)**

Robert Fitzpatrick (CRD #842159, Registered Principal, Trumbull, Connecticut) was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for five business days. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of a New York District Business Conduct Committee (DBCC) decision and a cross-appeal by the NASD's Department of Enforcement. The sanctions were based on findings that Fitzpatrick failed to respond to NASD requests for information in a timely manner.

Fitzpatrick has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C10970176)**

Mark Angelo Gassoso (CRD #2590007, Registered Principal, Old Bridge, New Jersey) 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 10 days. Without admitting or denying the allegations, Gassoso consented to the described sanctions and to the entry of findings that a member firm, acting through Gassoso, violated the terms of its restrictive agreement by engaging in "penny stock" transactions; conducting business in a manner that required it to maintain net capital of not less than \$100,000; participating in "firm-commitment" underwritings; and effecting more principal trades than permitted in the agreement. **(NASD Case #C9A990032)**

Jeffrey Feridun Gencay (CRD #1601133, Registered Representative, Knoxville, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was

censured, fined \$136,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gencay consented to the described sanctions and to the entry of findings that he received \$25,200 in checks from public customers for the purpose of investing in securities, failed and neglected to execute, or promptly execute, the purchase of securities, and instead, deposited the checks into an account that he controlled, and retained the funds until a later date, thereby misappropriating \$25,200, without the knowledge or consent of the customers. **(NASD Case #C05990028)**

Andrew Harold Geyer (CRD #1908957, Registered Representative, Kings Park, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$30,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Geyer consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, securities transactions in the account of a public customer without the knowledge or consent of the customer. Geyer also failed to respond to NASD requests for information. **(NASD Case #C10990050)**

Kenneth Dean Gilkison (CRD #1243962, Registered Representative, Simi Valley, California) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Gilkison misappropriated funds totaling over \$5,000 from his member firm's budget accounting and reporting system accounts for his personal use by making numerous automated teller machine cash withdrawals to pay personal expenses and, without

authorization, paid himself fees for "office management." Gilkison also cashed a check that he received from an attorney who sublet part of his firm's office space, which should have been deposited in the firm's account, and used at least a portion of the funds to pay personal expenses. **(NASD Case #C02980074)**

Dedric Hillery Gill, III (CRD #1935821, Registered Representative, Cedar Creek, Nebraska) 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 20 days, and ordered to pay restitution of \$36,150. Without admitting or denying the allegations, Gill consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing all forms of notice required by the NASD. **(NASD Case #C04990028)**

David Clark Gossling (CRD #2545451, Registered Representative, Mesa, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$23,600, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Gossling consented to the described sanctions and to the entry of findings that he engaged in an outside business activity for compensation without providing his member firm with prompt written notice. **(NASD Case #C3A990034)**

Ross Scott Greenberg (CRD #1892294, Registered Representative, Kings Park, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$20,000,

suspended from association with any NASD member in any capacity for six months, and required to requalify by taking the Series 7 exam prior to acting again in that capacity. Without admitting or denying the allegations, Greenberg consented to the described sanctions and to the entry of findings that he purchased shares of securities in a public customer's account without the customer's prior knowledge or consent. The findings also stated that Greenberg made material misrepresentations to the customer regarding the use of margin, how it works, the high level of risk involved using this strategy, and lulled the customer into accepting and/or ratifying the unauthorized purchase of shares of a security. **(NASD Case #C10990114)**

Hanna Grzedzicakawalek (CRD #2610590, Registered Representative, Glen Cove, New York) submitted an Offer of Settlement pursuant to which she was fined \$50,000, barred from association with any NASD member in any capacity, and ordered to pay \$1,784 in restitution. Without admitting or denying the allegations, Grzedzicakawalek consented to the described sanctions and to the entry of findings that she received a \$1,479 cash payment from a public customer to pay the annual premium for a life insurance policy, never transmitted this payment to the insurance company, and, instead, deposited the money in her personal bank account and began making monthly premium payments of \$135 on the customer's policy. The findings also stated that Grzedzicakawalek made a total of \$810 of such payments and converted the remaining \$669 to her own use and benefit without the customer's knowledge or consent. In addition, Grzedzicakawalek received insurance checks totaling \$1,115.39 payable to public customers representing premium

refunds from canceled life insurance policies. Rather than transmitting these payments to the customers, the NASD determined that Grzedzicakawalek endorsed the checks, deposited them in her personal bank account, and then converted the resulting funds to her own use and benefit, without the customers' consent or authority. Grzedzicakawalek also failed to respond to NASD requests for information. **(NASD Case #C9B990002)**

Gregory Eliot Hall (CRD #2450067, Registered Principal, Brooklyn, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hall failed to respond to NASD requests to appear for an on-the-record interview and to produce documents. **(NASD Case #C10980094)**

Matthew Christopher Hawley (CRD #2560308, Registered Principal, Sleepy Hollow, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$80,000, suspended from association with any NASD member in any capacity for 18 months, and ordered to pay \$316,001.00 in restitution to public customers. Without admitting or denying the allegations, Hawley consented to the described sanctions and to the entry of findings that he made material misrepresentations and failed to disclose material facts to public customers in order to solicit them to purchase securities. The findings also stated that Hawley made fraudulent price predictions to public customers in connection with his recommendations and solicitations to purchase securities, and effected transactions in the accounts of public customers without the prior authorization of the customers. Hawley also failed to execute a sell order as instructed

by a public customer. **(NASD Case #C3A990001)**

Suzanne Hobbie (CRD #1268699, Registered Principal, Tampa, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$10,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hobbie consented to the allegations and the entry of findings that she failed to submit accurate Forms U-4 that disclosed unsatisfied judgments ordered against her. **(NASD Case #C07990042)**

Ronald Ray Hutchinson (CRD #1206688, Registered Representative, Lawton, Oklahoma) 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 one year. Without admitting or denying the allegations, Hutchinson consented to the described sanctions and to the entry of findings that he received a check in the amount of \$358.32 from a public customer as a premium payment on her insurance policies, misused the customer funds by failing and neglecting to timely remit the payment to his member firm, and instead, deposited the customer's check into his personal bank account, without the customer's knowledge or consent, and then submitted premium payments totaling \$353.01. **(NASD Case #C05990027)**

Jeffrey Rowe Jones (CRD #2069103, Registered Representative, Baldwinsville, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Jones failed to respond to

NASD requests for information. **(NASD Case #C11980015)**

Gene Alex Jung (CRD #2807594, Registered Representative, San Francisco, California) was fined \$40,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Jung submitted a Form U-4 in which he failed to disclose his criminal convictions. **(NASD Case #C01990001)**

Cari Diane King (CRD #2483508, Registered Representative, Dallas, Texas) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that King failed to respond to NASD requests for information and documentation regarding funds inadvertently deposited by her employer into her personal account which she refused to return. **(NASD Case #C06980026)**

Gerard William King (CRD #1840274, Registered Representative, Metuchen, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$75,000, barred from association with any NASD member in any capacity, and ordered to pay disgorgement of \$148,511.41. Without admitting or denying the allegations, King consented to the described sanctions and to the entry of findings that he accepted bribes, in the form of shares of common stock, and, in return for the bribes, sold shares of the common stock to public investors. King also failed to appear for an on-the-record interview. **(NASD Case #C10990094)**

Jeffrey Scott Koch (CRD #2459924, Registered Representative, Rochester, New

York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$88,750, barred from association with any NASD member in any capacity, and ordered to pay restitution to a public customer in the amount of \$3,750, plus interest. Without admitting or denying the allegations, Koch consented to the described sanctions and to the entry of findings that he accepted an order to purchase shares of securities from a public customer, and received checks totaling \$3,750 for payment of the securities. The NASD found that, instead of executing the purchase order as directed, Koch created a false confirmation of the purchase, mailed the false confirmation to the customer as evidence of an executed transaction when no such transaction had ever occurred, endorsed the checks, deposited them into his personal bank account, and used the funds for his own benefit. In addition, Koch failed to respond completely to NASD requests for information. **(NASD Case #C8B990018)**

Daniel Lawrence Kouba (CRD #1254972, Registered Representative, Hillsboro, Wisconsin) 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, Kouba consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, and failed and neglected to provide prior written notice to, and obtain prior written authorization from, his member firm to engage in the transactions. **(NASD Case #C8A990018)**

Eric Thomas Landis (CRD #2605896, Registered Principal, Weston, Connecticut) submitted a Letter of Acceptance, Waiver, and

Consent pursuant to which he was censured, fined \$35,000, and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Landis consented to the described sanctions and to the entry of findings that, acting in his capacity as a trader for a member firm, he engaged in manipulative, deceptive and/or fraudulent conduct by intentionally executing and reporting fictitious transactions to the Nasdaq National Market at or near the close of the market for the purpose of artificially affecting the reported last sale prices in the securities. The findings also stated that Landis intentionally published and circulated reports of purchase and sale transactions that he knew were fictitious and non-bona fide. **(NASD Case #CMS990061)**

Vincent Francis Laurino (CRD #2483765, Registered Representative, Old Bridge, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for two days. Without admitting or denying the allegations, Laurino consented to the sanctions and to the entry of findings that he sold a fixed annuity to public customers without the prior authorization or knowledge of his member firm. **(NASD Case #C10990093)**

Brian Chulyoung Lee (CRD #2677650, Registered Representative, Chino Hills, California) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Lee failed to respond to NASD requests for information. **(NASD Case #C02980080)**

George Cornelius LeFlore (CRD #1173833, Registered

Representative, Dixmore, Illinois) was censured, fined \$55,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that LeFlore received a check in the amount of \$5,209.95 from insurance customers with instructions to use such funds to correct problems with their insurance policies and to get a better return. LeFlore failed to follow said instructions and used the funds for some purpose other than for the benefit of the customers until he returned the funds at a later date. LeFlore also failed to respond to NASD requests for information. **(NASD Case #C8A980065)**

Michael Anthony Dupre Lucarelli (CRD #2253171, Registered Representative, Los Angeles, California) was censured, fined \$15,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Lucarelli filed a false and misleading Form U-4 with the NASD that failed to disclose a customer complaint charging him and the firm with which he was then employed with fraudulently obtaining \$225,000 to open a securities account and with conversion of that sum. **(NASD Case #C02980055)**

John Anthony Massaro (CRD #2629695, Registered Representative, Smithtown, New York) was censured and barred from association with any NASD member in any capacity. The sanctions were based on findings that Massaro made material misrepresentations, failed to disclose material facts, made fraudulent price predictions to public customers in connection with his solicitation to purchase securities, and effected transactions in the accounts of public customers without the prior authorization of the customers. The

findings also stated that Massaro failed to execute sell orders as instructed by public customers and failed to respond to NASD requests for information. **(NASD Case #C3A980076)**

Machelle Rene May (CRD #2506083, Registered Representative, San Diego, California) was censured, fined \$210,000, barred from association with any NASD member in any capacity, and ordered to pay restitution to her member firm in the amount of \$5,000. The sanctions were based on findings that May made unauthorized electronic transfers totaling \$42,208.67 from her firm's payroll account to her own bank account, failed to enter the transfers in her firm's records, and converted the funds to her personal use. **(NASD Case #C02990003)**

Edward Alloyisus McGilly, Jr. (CRD #2339846, Registered Principal, Saint James, New York) was censured, fined \$125,000, barred from association with any NASD member in any capacity, and ordered to pay \$113,721.25 in restitution to public customers. The sanctions were based on findings that McGilly made material misrepresentations and omitted to disclose material information in connection with the purchase and sale of securities. McGilly also provided public customers with price predictions without having a reasonable basis for making such projections, and effected transactions in the accounts of public customers without the customers' prior authorization and consent. **(NASD Case #C3A980042)**

James Anthony McInerney (CRD #2179456, Registered Representative, Centerport, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$20,000, and barred from association with any

NASD member in any capacity with the right to reapply in five years. Without admitting or denying the allegations, McInerney consented to the described sanctions and to the entry of findings that he either refused or failed to execute sell orders placed by public customers, and bought and/or sold securities for the accounts of customers without obtaining the customers' authorization. McInerney also required that customers purchase aftermarket shares as a condition of purchasing initial public offering units. **(NASD Case #CAF980031)**

Scott Evans McVicker (CRD #2275303, Registered Representative, Littleton, Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, McVicker consented to the described sanctions and to the entry of findings that he received funds from a public customer intended for the purchase of a variable annuity, failed to forward these funds to the member firm with which he was then registered, and instead, forwarded the annuity application and the funds to an individual associated with the broker/dealer with which he had made application to become registered. The findings also stated that McVicker participated in a private securities transaction without providing his member firm with prior written notice.

McVicker's suspension began July 19, 1999, and will conclude at the close of business on August 18, 1999. **(NASD Case #C3A990041)**

Socorro Maria Mendez (CRD #2858757, Registered Representative, Santa Ana, California) was censured, fined \$25,000, and barred from

association with any NASD member in any capacity. The sanctions were based on findings that Mendez failed to respond completely and timely to an NASD request for documents and to appear for testimony. **(NASD Case #C02980094)**

Robert Mogavero (CRD #2449762, Registered Representative, Hypoluxo, Florida) was censured, fined \$50,000, barred from association with any NASD member in any capacity, and ordered to disgorge commissions in the amount of \$35,765.45 to the NASD. The sanctions were based on findings that Mogavero arranged to have an impostor take the Series 7 and Series 63 exams on his behalf. Mogavero also failed to appear for an on-the-record interview. **(NASD Case #C10990016)**

Richard John Nicola (CRD #2376561, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$16,500, suspended from association with any NASD member in any capacity for 60 days, barred from association with any NASD member in any principal capacity, and required to pay \$40,687 in restitution, jointly and severally. Without admitting or denying the allegations, Nicola consented to the described sanctions and to the entry of findings that a member firm, acting through Nicola, effected transactions in common stock as principal at prices that were unfair and unreasonable taking into consideration all of the relevant factors. The findings also stated that the firm, acting through Nicola, violated terms of its restrictive agreement by engaging in "penny stock" transactions; conducting business in a manner that required it to maintain net capital of not less than \$100,000; participating in "firm-commitment" underwritings;

and effecting more principal trades than permitted in the agreement. In addition, the firm, acting through Nicola, violated SEC penny stock transaction and disclosure rules and failed to properly prepare order tickets and confirmations for stock transactions. **(NASD Case #C9A990030)**

Boris Rentzer (CRD #2591601, Registered Representative, Staten Island, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Rentzer failed to respond to NASD requests to provide testimony. **(NASD Case #C10980057)**

Samuel Jeffrey Rhoades (CRD #2277634, Registered Principal, Bellaire, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rhoades consented to the described sanctions and to the entry of findings he created fictitious monthly account statements relating to a public customer and then forwarded those fictitious monthly account statements to the customer. Rhoades also failed to respond to an NASD request to provide testimony. **(NASD Case #C06990009)**

Patrick Kelton Roberts (CRD #2906143, Registered Representative, Van Buren, Arkansas) 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, Roberts consented to the described sanctions and to the entry of findings that he failed to

respond to NASD requests for information. **(NASD Case #C04990025)**

Adam Bruce Salberg (CRD #1746502, Registered Representative, Rockway, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Salberg consented to the described sanctions and to the entry of findings that he forged a public customer's name on an account application by cutting and pasting the customer's signature from another document without the customer's knowledge or consent. **(NASD Case #C9B990012)**

Eric Eugene Scherrer (CRD #2652030, Associated Person, Denver, Colorado) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Scherrer filed a Form U-4 with the NASD that failed to disclose that he had been charged with criminal felonies. **(NASD Case #C3A990005)**

Joseph Salvatore Tarulli (CRD #2629825, Registered Representative, Staten Island, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Tarulli failed to respond to NASD requests for information. **(NASD Case #C10980102)**

Adam Alexander Townsend (CRD #2072351, Registered Representative, Hoboken, New Jersey) 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, Townsend consented to the described sanctions and to the entry of findings that he executed trades in the amount of \$38,263.75 in the accounts of public customers without the customers' prior knowledge or consent. The findings also stated that Townsend settled a customer complaint concerning an unauthorized transaction by sending a check in the amount of \$1,406.25 to a public customer without his firm's knowledge or consent. **(NASD Case #C10990092)**

Anthony Edward Verello (CRD #2578981, Registered Representative, Brooklyn, New York) was censured, fined \$55,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Verello provided false information on an employment application by failing to disclose that he had been arrested on a charge of felony burglary in the third degree and had pled guilty to a misdemeanor criminal trespass charge. Verello also failed to respond to NASD requests for information. **(NASD Case #C10980081)**

James Thomas Walsh (CRD #2493819, Registered Representative, Commack, New York) was censured, fined \$150,000, barred from association with any NASD member in any capacity, and ordered to pay \$50,875, plus interest, in restitution to public customers. The sanctions were based on findings that Walsh made material misrepresentations and failed to disclose material facts to public customers in order to induce them to purchase securities. In addition, Walsh made fraudulent

price predictions to the customers in connection with his recommendations and effected a transaction in a public customer's account without the prior authorization of the customer. **(NASD Case #C3A980044)**

Victoria Jean Williams (CRD #713566, Registered Representative, Sunset Beach, California) was censured, fined \$15,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Williams solicited a securities investment of \$1,000 from a public customer, provided the customer with an "Explanation of Investment" form as a receipt, and misled the customer into believing that this was an investment in a securities fund. Instead, Williams improperly caused the customer's funds to be deposited into the account of her landlord without the customer's knowledge or consent and repaid the customer at a later date. **(NASD Case #C02980053)**

Heath Robert Youell (CRD #474764, Registered Representative, Seattle, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$300,000, barred from association with any NASD member in any capacity, and ordered to pay \$54,959 in restitution to a public customer. Without admitting or denying the allegations, Youell consented to the described sanctions and to the entry of findings that he deposited \$54,959 of a public customer's funds into a bank account under his control. Rather than purchase mutual funds for the customer as instructed, the NASD found that Youell used the funds for his own benefit without the authorization of the customer. **(NASD Case #C3B990025)**

Individuals Fined

Robert Gary Amos (CRD #1024719, Registered Representative, Selah, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$15,000. Without admitting or denying the allegations, Amos consented to the entry of findings that he failed to provide prompt written notice to either of his member firms that he would be accepting compensation for the sale of viatical settlements, which was outside the scope of his relationship with his employers. **(NASD Case #C3B990024)**

James Burling Chase (CRD #368743, Registered Principal, Milwaukee, Wisconsin) submitted an Offer of Settlement pursuant to which he was censured and fined \$20,000. Without admitting or denying the allegations, Chase consented to the described sanctions and to the entry of findings that a member firm, acting through Chase, effected securities transactions when the firm failed to maintain its minimum required net capital, prepared inaccurate trial balances and net capital computations, and filed inaccurate FOCUS Part IIA reports with the NASD. The findings also stated that the firm, acting through Chase, failed to comply with the terms of its restrictive agreement when the firm processed more proprietary transactions in its inventory than permitted and also received and held customer securities in violation of the agreement. Furthermore, the NASD determined that the firm, acting through Chase, failed to employ a properly qualified financial and operations principal. **(NASD Case #C8A990009)**

Leonard John Ialeggio (CRD #254515, Registered Representative, Danville,

California) was censured, fined \$15,000, and ordered to requalify by exam as a general securities representative. The U.S. Court of Appeals for the Ninth Circuit denied Ialeggio's petition for review of a May 1998 SEC decision and affirmed the sanctions imposed. The sanctions were based on findings that Ialeggio submitted expense vouchers to his member firm's parent company and received payment for travel expenses totaling \$8,502.50, to which he was not entitled. Ialeggio also induced the company to pay \$35,000 for his country club dues, a payment to which he was not entitled. **(NASD Case #C01930044)**

Mark Desean Odom (CRD #2194790, Registered Representative, Redmond, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,500, and required to pay restitution to public customers in the total amount of \$5,685. Without admitting or denying the allegations, Odom consented to the described sanctions and to the entry of findings that he recommended purchases and sales in the joint account of public customers without having reasonable grounds for believing such transactions were suitable for the customers in light of the facts disclosed by them as to their other security holdings, and their financial situation, objectives, and needs, and in light of the nature of the equities recommended, and the concentration of specific equities in the account created by Odom's recommendations. **(NASD Case #C3B990018)**

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.

ACAP Financial, Inc. (CRD #7731, Salt Lake City, Utah) and Kirk Lynn Ferguson (CRD #1307741, Registered Principal, Centerville, Utah) were named as respondents in an NASD complaint alleging that the firm, acting through Ferguson, reported transactions to ACT as agency transactions when the transactions should have been reported as principal transactions, and reported short sale transactions with the incorrect short sale modifier. The complaint also alleges that the firm, acting through Ferguson, effected a transaction at an unfair price that was based upon an excessive markdown, and engaged in market-making activity during the restricted period of a distribution. The complaint alleges that Ferguson functioned in a registered or active capacity while inactive due to the Regulatory Element of the Continuing Education requirement. The complaint also alleges that the firm, acting through Ferguson, failed to file any reports of customer complaints to the NASD, and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable laws, rules, and regulations. **(NASD Case #C3A990044)**

Christopher Michael Block (CRD #2073057, Registered Principal, Houston, Texas), Jeffrey Schwartz Burke (CRD #2007369, Registered Principal, Houston, Texas), and Jennifer Lynn Gonzalez (CRD #2461482, Registered Principal, Houston,

Texas) were named as respondents in an NASD complaint alleging that Block and Gonzalez failed and neglected to ensure the preparation and maintenance of accurate books and records for their member firm, and failed and neglected to ensure the accurate preparation of FOCUS Part II filings for their firm. The complaint also alleges that Block, Burke, and Gonzalez allowed their firm to engage in a securities business when each knew, or should have known, that the firm's net capital was below the required minimum, and that Block and Gonzalez failed and neglected to provide notification that their firm's net capital was below the required minimum. The complaint further alleges that Block and Gonzalez induced the purchase of stock by providing financial information which they knew, or should have known, was false and misleading to public customers. The complaint also alleges that Block and Burke failed and neglected to exercise reasonable and proper supervision of Gonzalez, their firm's designated financial and operations principal. **(NASD Case #C05990026)**

Kenneth M. Caraglio (CRD #2580769, Registered Representative, Miami, Florida) was named as a respondent in an NASD complaint alleging that he purchased calls in the accounts of public customers and advised the customers that their calls had increased in value, after which the customers authorized Caraglio to sell their calls and purchase other calls he had recommended with the proceeds. The complaint alleges that Caraglio did not sell the original calls or purchase the options, and that the original calls expired worthless in each account. The complaint alleges that Caraglio then falsely represented to the customers that the calls he recommended had been purchased, provided the customers with a handwritten confirmation

falsely stating that the calls had been purchased, and falsely represented that their calls could be sold for a \$23,000 profit. The complaint alleges that after the customers instructed him to sell the calls and to send a check for the proceeds, Caraglio falsely represented to the customers that the calls had been sold and provided each with a false copy of a sell ticket as evidence thereof, but neither customer ever received a check for the profit that Caraglio falsely represented they had made. The complaint also alleges that Caraglio failed to respond to NASD requests for information. **(NASD Case #C07990046)**

David Scott Eli (CRD #1717625, Registered Representative, Clarksburg, West Virginia) was named as a respondent in an NASD complaint alleging that he received checks from public customers totaling \$53,259.16 for the purpose of making payments on life insurance policies or for the purpose of investing in interest-bearing instruments, negotiated the checks, but did not remit the proceeds for their intended purposes. The complaint also alleges that Eli failed to respond to NASD requests for information. **(NASD Case #C9A990035)**

Brett Adam Finkelstein (CRD #2387245, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he reimbursed a public customer for his unrealized loss in a stock without obtaining prior authorization from his member firm and without having ever contributed funds to the customer's account. Finkelstein's reimbursement constitutes an impermissible sharing in the losses in a customer's account. **(NASD Case #C10990100)**

Jeffrey Phillip Halling (CRD #2468671, Registered

Representative, Eagan, Minnesota) was named as a respondent in an NASD complaint alleging that he received an annuity redemption check in the amount of \$35,060 from a public customer, failed to follow the customer's instructions to purchase an index annuity, deposited the \$35,060 check into his personal bank account, returned \$15,500.42 to the customer, and without the knowledge or consent of the customer, converted the remaining \$19,559.58 to his own personal use and benefit. The complaint also alleges that Halling received funds totaling \$23,053 from other public customers with instructions to purchase various mutual funds, failed to purchase the mutual funds, and without the knowledge or consent of the customers, converted the \$23,053 to his own personal use and benefit. The complaint also alleges that Halling failed to respond to NASD requests for information. **(NASD Case #C04990032)**

Frank Mark Paladino, Jr. (CRD #1503957, Registered Representative, Guilford, Connecticut) was named as a respondent in an NASD complaint alleging that he used a public customer's credit card without the customer's authorization, withdrew a total of \$9,800 from the customer's account, and improperly converted the funds for his own use and benefit. **(NASD Case #C11990024)**

Michele Edwardia Posey (CRD #2435628, Registered Representative, Chicago, Illinois) was named as a respondent in an NASD complaint alleging that she withdrew \$12,500 from the savings accounts of public customers, without the customers' knowledge or authorization, and used the funds for her own benefit or for some purpose other than for the benefit of the customers. The complaint also alleges that Posey

failed to respond fully to NASD requests for information. **(NASD Case #C8A990059)**

Robert Tretiak (CRD #1416058, Registered Principal, Las Vegas, Nevada) was named as a respondent in an NASD complaint alleging that a member firm, acting through Tretiak, participated in an initial public offering of common stock on a contingency basis to raise funds to acquire a parcel of land, and provided a prospectus to public investors that was materially false and misleading in that it failed to disclose the fact that the land offering had already been purchased through a string of financial arrangements orchestrated by Tretiak. These events rendered false and misleading representations in the prospectus indicating that financing had not yet been obtained and, in fact, might not be needed if the maximum number of shares was sold. The complaint also alleges that the firm, acting through Tretiak, failed to return investor funds when terms of the contingency were not met and failed to transmit promptly investor funds to a properly established escrow account. **(NASD Case #C02990042)**

David Randall Wright (CRD #2378371, Registered Representative, Irving, Texas) was named as a respondent in an NASD complaint alleging that he placed orders to purchase shares of stock for his personal securities account with his member firm, failed to disclose to his firm that he was financially unable to pay for the shares, and failed to disclose that his intention was to pay for the shares by selling the shares prior to the settlement date and using the proceeds to cover the purchase price. The complaint also alleges that when questioned by his branch office manager about his financial ability to pay for his recent purchase, Wright represented that he could obtain the funds to pay for

this trade from his grandfather when, in fact, he had not discussed the stock purchase with his grandfather. The complaint also alleges that Wright caused the execution of transactions in his personal account for which he knowingly did not have the financial resources to settle, nor the ability to meet the initial margin requirements of Federal Reserve Board Regulation T, as well as the margin requirements set forth in the NASD's Conduct Rules. **(NASD Case #C06990008)**

Firms Expelled For Failing To Pay Fines, Costs, And/Or Provide Proof of Restitution In Connection With Violations

Aspen Capital Group, Inc., Denver, Colorado (June 30, 1999)

Lakeside Trading, Metairie, Louisiana (June 30, 1999)

Firms Suspended/Canceled

The following firms were suspended/canceled from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspensions/cancellations 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.

Alexander Kale Securities, Inc., Geneva, Switzerland (July 7, 1999)

A.T.A.P. Financial Services, Inc., Leesburg, Florida (June 29, 1999 - July 9, 1999)

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

Chan, Teresa Fei, Seattle, Washington (June 30, 1999)

Hawkins, Michael W., Atlanta, Georgia (June 30, 1999)

Jung, Jonathan K., Boston, Massachusetts (June 30, 1999)

Kauachi, William C., Houston, Texas (June 30, 1999)

Kiernan, Jr., William J., San Diego, California (July 16, 1999)

Knight, Christopher S., Forest Hills, New York (June 30, 1999)

Loucks, Todd J., Oneonta, New York (July 16, 1999)

McNeil, Gerald C., North Bergen, New Jersey (June 30, 1999)

Montano, Daniel C., Orange, California (June 30, 1999)

Ong, Huang Huei, Singapore (June 30, 1999)

Russell, Thomas G., Metairie, Louisiana (June 30, 1999)

Salmonese, Benjamin V., New York, New York (June 30, 1999)

Spinelli, Jr., Frank John, Staten Island, New York (June 30, 1999)

NASD Regulation Hearing Panel Expels Monroe Parker Securities And Bars Principals; Fines In Excess Of \$8 Million Imposed

NASD Regulation announced the expulsion of Monroe Parker Securities, Inc., Purchase, NY, from

membership in the NASD and imposed a fine of \$5.6 million for price manipulation, excessive markups, and other violations following a decision rendered by an NASD hearing panel.

Charged with fraud in connection with the sale of common stock, sanctioned, and fined are the following:

- **Alan S. Lipsky.** Monroe Parker's President was barred from associating, in any capacity, with any NASD member and fined: (i) \$750,000 individually; (ii) \$3.16 million jointly and severally with the firm, Bryan J. Herman, and Ralph J. Angeline for profits made trading Steven Madden, Ltd. Class A warrants; and (iii) \$1.36 million jointly and severally with the firm and Herman for profits made trading United Leisure Corporation common stock.
- **Bryan J. Herman.** The firm's Vice President was barred from associating, in any capacity, with any NASD member and fined: (i) \$1.1 million individually; (ii) \$3.16 million jointly and severally with the firm, Lipsky, and Angeline for profits made trading Steven Madden, Ltd. Class A warrants; and (iii) \$1.36 million jointly and severally with the firm and Lipsky for profits made trading United Leisure Corporation common stock.
- **Ralph J. Angeline.** The firm's Director of Trading was barred from associating, in any capacity, with any NASD member and fined: (i) \$600,000 individually; and (ii) \$3.16 million jointly and severally with the firm, Lipsky, and Herman for profits made trading Steven Madden, Ltd. Class A warrants.

Richard S. Levitov, the firm's Director of Compliance, was also charged with failure to supervise and barred from associating with any member of the NASD in any principal capacity, suspended in all other capacities for one year, fined \$5,000, and ordered to requalify by passing the Series 7 examination before re-associating with any member firm.

Collectively, taking into account that some of the fines have joint and several liability, the total amount imposed is \$8,047,692, plus accrued interest. When fines are imposed with joint and several liability, both parties are responsible for the payment of the single dollar amount.

The complaint, filed on December 23, 1997, alleged that during late 1994 and early 1995, Monroe Parker, acting through Herman and Angeline, acquired approximately 94 percent of the Class A warrants of Steven Madden, Ltd. available for public trading. The significant majority of these warrants were acquired from Stratton Oakmont Securities, Inc.—Lipsky's and Herman's former employer and a firm expelled by NASD Regulation in December 1996. The hearing panel, comprised of a Hearing Officer and two industry members, found that after acquiring this dominant position, Monroe Parker manipulated the price of the warrants and, within six days, sold its entire inventory to its retail customers at fraudulently excessive markups.

More than \$3 million in profits were made from these fraudulent trades—more than \$2 million were made by the firm, while Lipsky and Herman personally profited by an additional \$1.1 million. Once these profits were made, Monroe Parker no longer had an interest in artificially supporting the price, and

reduced its bid for the security. Within a week, the price fell from \$3.625 to \$1.50 per warrant, and its customers lost millions of dollars.

The panel also found that Monroe Parker, Lipsky, and Herman fraudulently failed to disclose interests adverse to those of their customers in connection with the sale of a second security, United Leisure Corporation common stock. Customers who bought United Leisure stock, upon the firm's recommendation, were not told that the stock came from the personal accounts of Lipsky and Herman (who were previously given the stock at no cost by Monroe Parker, and who sold the stock back to the firm through pre-arranged trades). Lipsky and Herman personally profited from the sales by more than \$1.3 million.

The panel additionally found that Lipsky and Levitov failed to supervise the trading and sales activity at Monroe Parker in violation of NASD Conduct Rules.

Angeline has appealed and the matter as to Levitov has been called for review by the NAC. The sanctions as to them are not in effect pending consideration by the NAC.

NASD Regulation Censures And Fines On-Site Trading, Inc. For Registration Violations

NASD Regulation announced that it censured and fined On-Site Trading, Inc., of Great Neck, NY, \$25,000 for failure to properly qualify and register 14 individuals.

In addition to proprietary traders employed by the firm at its main trading floor in Great Neck, On-Site provides services to day-trading customers who effect trades from 10 On-Site branch offices and other

remote locations around the country.

The censure and fine mark the first disciplinary action by NASD Regulation for violations of the NASD's Series 55 registration rule. The rule prohibits equity traders from trading in the Nasdaq® and over-the-counter markets without first passing a qualification examination for trading and market making and registering with NASD Regulation.

Without admitting or denying the charges, On-Site consented to the entry of findings that 14 employees who acted as equity traders between May 1, 1998, and January 31, 1999, failed to comply with the Series 55 registration rule. During that period, those 14 traders effected approximately 3,700 trades in 250 Nasdaq securities.

On-Site also consented to findings that it lacked adequate oversight to ensure proper registration of its traders. As part of the settlement, On-Site agreed to implement new compliance procedures to prevent future violations.

The Series 55 registration rule became effective in April 1998. It applies to Market Makers, agency traders, proprietary traders, and persons who supervise these activities. The rule was developed in response to concerns about rule violations by traders conducting market-making and principal trading functions in both the Nasdaq and over-the-counter markets.

In addition to the specialized Series 55 examination, equity traders must also have passed either the General Securities Registered Representative Examination (Series 7) or the Corporate Securities Limited Representative Examination (Series 62). The Series 55 examination includes

questions regarding the Nasdaq market and Market Maker activities, automated execution and trading systems, trade reporting, and other industry regulations.

This matter resulted from an investigation conducted by NASD Regulation's New York District Office.

NASD Regulation Fines Pruco Securities \$20 Million

Sales Practice, Advertising, Supervision, and Registration Violations Found in Connection with Variable Life Insurance Sales

NASD Regulation announced that it has censured and fined Pruco Securities Corporation, Inc., a broker/dealer subsidiary of The Prudential Insurance Company of America, \$20 million for violations of federal securities laws and NASD rules which occurred in connection with the offer and sale of variable life insurance policies.

NASD Regulation found that sales of more than 200,000 Prudential variable life insurance policies from 1983 through 1995 violated NASD rules and federal securities laws. During this period, Pruco and its registered representatives:

- induced customers who already owned Prudential life insurance to purchase new variable life insurance policies by misrepresenting that the policies could be acquired for little or no additional cash payment, by using cash values and future dividends from customers' existing policies. In fact, those cash values and dividends often were insufficient to pay the premiums for new policies, and both the new and existing policies frequently lapsed when cash values and dividends were

used to acquire new policies in this fashion;

- misrepresented, through misleading sales presentations, that premium payments would end, or "vanish," after a certain number of years;
- misrepresented that variable life insurance was not insurance but, instead, was an investment, savings, or retirement plan;
- made sales to customers for whom such sales were unsuitable, including persons who did not know they were purchasing insurance and persons who did not want to purchase insurance;
- used misleading and unauthorized sales literature to sell variable life insurance;
- failed to establish, maintain, and enforce reasonable supervisory procedures;
- failed to register representatives, enabling unregistered persons to sell securities, and failed to register principals; and
- failed to file or filed inaccurate Forms U-4 and U-5 which, among other things, provide disciplinary information to the investing public about registered representatives.

NASD Regulation found that these violations resulted from a breakdown of Pruco's procedures relating to the sale of life insurance products which are securities and that, despite repeated indications of problems, Pruco and Prudential Insurance Company failed to respond adequately.

"Securities firms that sell variable life insurance products must ensure that they are appropriate for

particular investors and that brokers do not mislead their customers about the nature of these products. Both firms and representatives must realize that the same sales practice, supervisory and registration concerns that apply to traditional broker/dealer products also apply to variable life insurance," said NASD Regulation President, Mary L. Schapiro.

Variable life insurance is a hybrid product containing both insurance and securities elements. It guarantees a minimum death benefit but, unlike conventional life insurance, also provides a variable death benefit and a variable cash value reflecting the values of separate, segregated accounts of the insurance company. Through these accounts, which are invested in securities, the customer bears an investment risk. Because owners of variable life insurance policies assume investment risks, the policies are securities within the meaning of the federal securities laws. NASD Regulation has jurisdiction over the sale of variable life insurance by member firms and associated persons.

Customers who believed they were harmed by the sales practice violations covered by today's action, including those who purchased the more than 200,000 variable life insurance policies, have been able to participate in a remediation program instituted by Prudential Insurance Company in connection with settlements of actions by state insurance regulators and the settlement of a class action lawsuit. That program addressed sales of both fixed life insurance and variable life insurance. Prudential Insurance Company has taken an aggregate charge of \$2.6 billion to provide the compensatory relief required by the remediation program. A significant portion of that relief relates to sales of variable life insurance.

In resolving this matter and imposing sanctions, NASD Regulation took into account the remediation program as well as actions taken by Pruco and Prudential Insurance Company to enhance and strengthen their policies and procedures.

As part of its settlement with NASD Regulation, Pruco, which neither admitted nor denied the allegations, agreed to retain an outside consultant to review and make recommendations concerning the adequacy of the current policies and procedures of Pruco and Prudential Insurance Company. Pruco will implement necessary changes and submit a report to NASD Regulation detailing its actions.

This matter was investigated by NASD Regulation's Enforcement Department with assistance from its Advertising/Investment Companies Regulation Department. NASD Regulation wishes to acknowledge the cooperation and assistance of the State of Florida in this matter.

NASD Regulation Sanctions Trader For Limit Order Violations

NASD Regulation's National Adjudicatory Council (NAC) ordered Michael B. Jawitz to pay a \$50,000 fine, be suspended from the securities industry for one year, and then requalify as an equities trader.

The NAC found that Jawitz engaged in deceptive conduct by entering fictitious limit orders into his member firm's order execution system that led to non-bona fide transactions. The NAC also found that by engaging in this type of conduct and violating the NASD's limit order protection rule, Jawitz abdicated his fiduciary responsibility by not protecting the customers' limit orders. The conduct occurred in 1995 and 1996.

Initially, NASD's Market Regulation Committee alleged that Jawitz engaged in manipulative, deceptive, or fraudulent conduct when he placed 184 fictitious limit orders in 30 Nasdaq stocks and then canceled them. While the Market Regulation Committee found that Jawitz placed fictitious limit orders, violated the NASD's limit order protection rule, and caused non-bona fide transactions to be publicly disseminated, the Market Regulation Committee, nevertheless, dismissed the charge that Jawitz did so with the intent to manipulate or defraud. Jawitz then appealed the other findings of the Market Regulation Committee to the NAC. When a case is appealed or called for review, the entire case – along with all the findings – is reviewed. In this instance, the NAC determined that Jawitz did indeed engage in deceptive conduct and reinstated the finding.

The NAC found that Jawitz engaged in deceptive conduct and intentionally prevented the execution of 75 customer limit orders in violation of the NASD's limit order protection rule. According to the limit order protection rule, brokerage firms must fill a customer's limit order before they trade the same securities for their own account at prices equal to or better than the customer limit order.

Jawitz entered fictitious limit orders into the firm's order execution system at superior prices in order to avoid having to execute customer limit orders that were already in the firm's system. The fictitious limit orders were executed and were reported to the Nasdaq quotation tape. Although Jawitz canceled the trades, dealers and public investors had no reason to believe that the reported transactions did not reflect legitimate trades and legitimate cancellations.

Jawitz has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal.

NASD Regulation Fines Coleman & Company Securities, Inc. \$200,000 For Unjustified Termination Of Firm Commitment Underwriting

NASD Regulation announced that an NASD Regulation Hearing Panel fined Coleman & Company Securities, Inc., New York, NY, \$200,000 for violating NASD rules by backing out of a firm commitment underwriting of an initial public offering (IPO). The panel also suspended the firm for three months from participating in any underwritings, and for an additional nine months from acting as a lead managing underwriter.

On May 12, 1998, NASD Regulation filed a complaint against Coleman and its former president and CEO, Aaron Jones Yorke, IV. Yorke subsequently settled the matter, as described below. After Coleman's hearing, the panel found that it had acted as the managing underwriter for a November 20, 1995 IPO of 1 million shares of common stock of Hungarian Broadcasting Company (HBC) at \$7 per share. According to the underwriting agreement, HBC was to receive net proceeds of \$6.3 million from Coleman as a result of the offering. Despite Coleman's obligations to complete the offering and pay HBC, the hearing panel found that Coleman unjustifiably terminated the offering in violation of the NASD rule that requires member firms to observe high standards of commercial honor and just and equitable principles of trade in the course of doing business.

The hearing panel found that Coleman had terminated the

offering because purchasers failed to affirm their orders when the price of HBC stock fell in the aftermarket, and Coleman had insufficient capital to close the offering by purchasing the offered shares. Because of Coleman's termination, HBC did not receive any funds from the underwriting and all of the IPO purchases and aftermarket transactions had to be unwound and canceled, affecting at least 50 NASD member firms and their clearing agents. The hearing panel found that more than 230 customers had purchased HBC common stock in the initial public offering and that approximately 660,000 shares of HBC shares had traded in Nasdaq's SmallCapSM market prior to the termination.

The hearing panel also ordered the firm to retain a consultant as a condition to resuming underwriting activity after the initial three-month suspension and to revise its compliance manual in accordance with the consultant's recommendations. HBC had previously filed a civil action against Coleman to recover the proceeds it was to receive under the underwriting agreement and subsequently settled that action.

NASD Regulation also previously entered into a settlement with Yorke, the former president and CEO of Coleman, for his role in the termination of the HBC offering. As part of that settlement, Yorke was fined \$30,000, suspended from association with any member firm

for 60 days, and censured. In submitting his Offer of Settlement, Yorke neither admitted nor denied the findings of NASD Regulation.

Coleman has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal.

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