

Disciplinary Actions

Disciplinary Actions Reported For July

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, July 19, 1999. The information relating to matters contained in this *Notice* is current as of the end of June 22, 1999.

Firm And Individuals Suspended

Talley King & Co., Inc. (CRD #31043, Irvine, California), Paul Douglas King (CRD #1794109, Registered Principal, Irvine, California), and Richard William Talley, (CRD #442208, Registered Principal, Santa Barbara, California) submitted an Offer of Settlement pursuant to which they were censured and fined \$90,000, jointly and severally, and suspended from participating in direct participation program offers and/or sales for 30 days. In addition, the firm was required to offer rescission to certain investors and provide proof of the rescission offers to the NASD, and to retain an independent consultant to review the firm's procedures and policies, recommend appropriate corrective measures, and submit a final report setting forth all procedures adopted and implemented to ensure compliance with the NASD's rules. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting under the direction and control of King, effected securities transactions and induced the purchase and sale of securities when the firm failed to maintain sufficient net capital. Also the firm, acting under the direction and control of King and Talley, offered and sold investments in a

contingent offering of limited partnership interests, failed to deposit and retain customer funds in separate escrow accounts until the minimum number of units had been sold, and offered and sold securities to public customers for which a registration statement was not filed and in effect with the Securities and Exchange Commission (SEC) and for which no exemptions were applicable. The findings also stated that the firm, acting under the direction and control of King, failed to maintain and preserve required records and failed to establish written supervisory procedures reasonably designed to carry out the firm's business, specifically its direct participation programs. **(NASD Case #C02980071)**

Firm And Individual Fined

Pryor, McClendon, Counts & Co., Inc. (CRD #11002, Philadelphia, Pennsylvania) and Malcolm Dermott Pryor, Sr. (CRD #368534, Registered Principal, Villanova, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Pryor, failed to evaluate and prioritize its training needs and failed to develop a written training plan as required by the NASD's Continuing Education Requirements, failed to administer Firm Element Continuing Education to all employees subject to such training, and failed to maintain adequate records documenting the content of programs administered pursuant to the Firm Element Continuing Education Requirements. The findings also stated that, in connection with its participation as an underwriter in offerings of securities that traded at an immediate premium in the secondary market, the firm effected sales to

investment partnership or corporation accounts without complying with one of the two alternatives under NASD IM-2110-1(f)(1), and the firm and Pryor failed to ensure that the firm had obtained the information for the accounts required by one of the two alternatives before the trades were executed. Furthermore, the firm sold securities issued in a public offering that traded at an immediate premium in the secondary market to an account prohibited from purchasing any “hot issue”, and the firm, acting through Pryor, failed to establish and maintain adequate written supervisory procedures pertaining to the Firm Element provisions of the NASD’s Continuing Education Requirement and the NASD Board of Governors’ Free-Riding and Withholding Interpretation. **(NASD Case #C9A990015)**

Firms Fined

American Fronteer Financial Corporation (CRD #1398, Denver, Colorado) 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 reported transactions to the Fixed Income Pricing SystemSM (FIPS[®]) in violation of applicable securities laws and regulations regarding trade reporting and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations regarding FIPS. **(NASD Case #CMS990047)**

Black & Company, Inc. (CRD #95, Portland, Oregon) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$32,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, while acting in the capacity of lead manager in an

initial public offering (IPO), and acting through various registered representatives, obtained checks from public customers on deposit for the purchase of shares of common stock in the IPO prior to the effective date of registration of the stock. The findings also stated that the firm reflected the time of execution on order tickets as a time later than the time the transactions were reported to Nasdaq[®], and executed transactions for its own inventory account at the same price or at a price better than pending customer limit orders. In addition, the NASD determined that the firm failed to reflect immediately customer limit orders in its market-making quotations. **(NASD Case #C3B990015)**

Comprehensive Capital Corp., (CRD #6215, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$33,500, required to submit revised written supervisory procedures to the NASD, and ordered to pay restitution to public customers in the amount of \$1,052.24, plus interest. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable securities laws and regulations regarding trade reporting and recordkeeping. The findings also stated that the firm failed to use reasonable diligence to ascertain the best inter-dealer market so that the resultant price to the customer was as favorable as possible under prevailing market conditions. The NASD also determined that the firm failed to establish, maintain, and enforce adequate written supervisory procedures regarding ACT compliance, annual review/internal audits, best execution, limit order protection, SEC order execution rules, registration of traders and supervisors, trade reporting, the Small Order Execution SystemSM

(SOESSM), anti-competitive issues, books and records, and locked and crossed markets. **(NASD Case #CMS990048)**

GFI Group, Inc. (CRD #19982, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting and recordkeeping. **(NASD Case #CMS990046)**

Legg Mason Wood Walker, Inc. (CRD #6555, Baltimore, Maryland) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which it was censured and fined \$16,500. 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 in violation of applicable securities laws and regulations regarding trade reporting and recordkeeping. The findings also stated that the firm failed, where it acted as principal for its own account, to provide written notification disclosing to its customers the correct reported trade price, the price to the customer, and the difference, if any, between the reported trade price and the price to the customer, and also failed to provide written notification disclosing its capacity in transactions. In addition, the NASD determined that the firm failed to contemporaneously execute customer limit orders after it traded each subject security for its own market-making account at prices that would satisfy each customer limit order, and failed to immediately publish in its public quotation customer limit orders, each of which were at a price that would improve its public quote in each security. Furthermore, the NASD found that the firm failed to use reasonable diligence to ascertain the

best inter-dealer market for each subject security, and buy and sell in such market so that the resultant price to its customers was as favorable as possible under the prevailing market conditions. The firm also failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with applicable rules regarding trade reporting, recordkeeping, the SEC's Order Handling Rules, Limit Order Protection Interpretation, best execution, the use of SOES, and anti-competitive practices. **(NASD Case #CMS990040)**

Olde Discount Corporation (CRD #5979, Detroit, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$38,500, and ordered to pay restitution to public customers in the total amount of \$580.63, plus interest. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously execute protected customer limit orders after it transacted in each security for its own market-making account at a price that was equal to or better than each such customer limit order, and, in the execution of customer orders, failed to use reasonable diligence to ascertain the best inter-dealer market for the securities so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to display customer limit orders in its public quote immediately, where each such order was at a price better than the firm's public quote or at a price equal to its public quote when such quote was priced equal to the national best bid or offer in such security and that order represented more than a de minimis change in relation to the size associated with the firm's bid or offer. In addition, the NASD determined that the firm failed to establish, maintain, and enforce written

supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and the NASD rules concerning trade reporting, limit orders, ACT reporting requirements, the conducting of an annual review and internal audits, best execution requirements, limit order protection, the SEC's Order Handling Rules, the registration of associated persons with the NASD, trade reporting, the use of SOES, recordkeeping, locked and crossed markets, and the issues identified in the SEC's 21(a) Report concerning the NASD. **(NASD Case #CMS990050)**

Triad Securities Corporation (CRD #11363, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting. The findings also stated that the firm failed to establish, maintain, and enforce adequate written supervisory procedures to ensure compliance with the NASD rules regarding trade reporting. **(NASD Case #CMS990045)**

Individuals Barred Or Suspended

Donna Marie Andres (CRD #1892251, Registered Representative, St. Louis, Missouri) submitted an Offer of Settlement pursuant to which she was censured, fined \$17,500, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Andres received checks totaling \$1,500 payable to her member firm, and without the knowledge or consent of her firm, endorsed the checks, deposited them into a bank account she controlled, and

converted the funds to her own use and benefit. **(NASD Case #C04990017)**

William Henry Ball (CRD #1924039, Registered Representative, Lisbon, New York) submitted a Letter of Acceptance, Waiver, and Consent 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, Ball consented to the described sanctions and to the entry of findings that he collected a total of \$3,190.76 in cash from insurance policyholders for the payment of premiums, provided the policyholders with receipts, but failed to apply the money to pay the premiums on variable and other insurance products. The NASD found that, instead, Ball misappropriated the funds and improperly converted the funds for his own use and benefit. **(NASD Case #C11990019)**

Anthony Joseph Barbera, Jr. (CRD #2404631, Registered Representative, Ocean Township, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, Barbera consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without the customers' prior authorization, and misrepresented to a customer that he would not pay sales charges on transactions in his account. The findings also stated that Barbera made misstatements to the NASD in connection with an investigation. **(NASD Case #C3A970019)**

Milton Royal Barnes III (CRD #1427439, Registered Principal, Phoenix, Arizona) submitted an Offer of Settlement pursuant to which he was censured, suspended from

association with any NASD member in any capacity for nine months, and required to pay restitution in the amount of \$115,000 to public customers. Without admitting or denying the allegations, Barnes consented to the sanctions and to the entry of findings that he effected transactions in the account of a public customer that were excessive in size and frequency, made recommendations to public customers that were unsuitable for them in view of their financial situation and needs, and offered to settle with the customers financially without advising his member firm of that offer. **(NASD Case #C3A960030)**

Tyrone Antoine Bennett (CRD #2783238, Associated Person, Downingtown, Pennsylvania) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Bennett failed to respond to NASD requests for information. **(NASD Case #C9A980045)**

Emanuele Robert Cardaci (CRD #2592992, Registered Principal, Farmingville, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Cardaci consented to the described sanctions and to the entry of findings that he made material misrepresentations and omitted to disclose material information to public customers in connection with his solicitation of customers to purchase securities. The findings also stated that Cardaci, in connection with his solicitation of customers to purchase securities, predicted the future prices of securities without having a reasonable basis, effected transactions in public customer accounts without the customer's prior authorization, and failed to execute a

public customer's sell order. Furthermore, the NASD found that Cardaci engaged in a series of securities transactions that were not economically beneficial to the customer but were economically beneficial to Cardaci. **(NASD Case #C3A990013)**

Darren Joseph Dietrich (CRD #1814017, Registered Representative, Plant City, Florida) 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 10 business days. Without admitting or denying the allegations, Dietrich consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account without obtaining prior written authorization from the customer to exercise said discretion, or having the account accepted in writing as a discretionary account by his member firm. **(NASD Case #C07990034)**

Victor Joseph Difrisco (CRD #1922218, Registered Representative, Gaithersburg, Maryland) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, Difrisco consented to the sanctions and to the entry of findings that he made baseless and improper price predictions as to speculative securities to public customers and required that customers purchase aftermarket shares as a condition of purchasing IPO units. **(NASD Case #CAF980031)**

Douglas Arthur Dill (CRD #2097574, Registered Representative, Lakewood, Ohio) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings

that Dill failed to respond to NASD requests for information. **(NASD Case #C8B980023)**

Anthony John DiMaria (CRD #2288257, Registered Representative, Bronx, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, DiMaria consented to the described sanctions and to the entry of findings that he had an impostor take and complete the Series 62 exam on his behalf. **(NASD Case #C10990067)**

John Arthur Eastin (CRD #2682834, Registered Representative, Joplin, Missouri) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$20,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Eastin consented to the described sanctions and to the entry of findings that he received a \$2,000 cashier's check from a public customer to purchase securities, failed to invest the monies as instructed, and without the knowledge or consent of the customer, converted the funds to his own use and benefit. The findings also stated that Eastin received an \$8,000 check from the customer, misused the funds in that he failed to make the investment as directed and retained the uncashed check until a later date, without the knowledge or consent of the customer. **(NASD Case #C04990022)**

Matthew Barry Eliscu (CRD #2739848, Registered Representative, Chicago, Illinois) 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 business days. Without admitting or denying the

allegations, Eliscu consented to the sanctions and to the entry of findings that he purchased call option contracts in his personal cash account at his member firm at a total cost of \$1,824.50, failed to have sufficient funds to pay for the transactions at the time they were effected, and failed to make full payment for the transactions until a later date. **(NASD Case #C8A990042)**

Todd Alan Endicott (CRD #2561038, Registered Representative, Golden, Colorado) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Endicott paid approximately \$20,000 to an employee of two affiliated insurance companies as a reward for the referral of her employers' securities business to him. **(NASD Case #C3A980060)**

Joseph John Esposito, Jr. (CRD #2811005, Registered Principal, Howard Beach, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, suspended from association with any NASD member in any capacity for two years, and, in the event he becomes registered with a member firm after his suspension, he shall not be permitted to continue such association unless that firm has adopted and implemented compliance programs and procedures with respect to Esposito which include monitoring his phone conversations and correspondence and reviewing his order tickets and account documentation for 12 months. Without admitting or denying the allegations, Esposito consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and documentation. **(NASD Case #C10990019)**

Garvey William Fox, Jr. (CRD #2166036, Registered

Representative, New York, New York), Matthew John Kehoe (CRD #2509976, Registered Representative, New York, New York), Glen O'Hare (CRD #2202811, Registered Representative, Staten Island, New York), and Matthew Jed Hirsch (CRD #2166037, Registered Representative, New York, New York) submitted Offers of Settlement pursuant to which Fox was censured, fined \$76,000, and barred from association with any NASD member in any capacity. Kehoe and O'Hare were each censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 10 business days, and Hirsch was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Fox, Kehoe, O'Hare, and Hirsch purchased securities for the accounts of public customers without the knowledge or consent of the customers and in the absence of written or oral authorization to exercise discretion in said accounts. The findings also stated that Fox failed to follow customers' instructions to sell securities. **(NASD Case #C8A970017)**

Philip Sidney Gassman (CRD #1569242, Registered Representative, Miami, Florida) 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 business days. Without admitting or denying the allegations, Gassman consented to the described sanctions and to the entry of findings that he exercised discretionary power in a public customer's account without obtaining prior written authorization from the customer, and without having the account accepted as a discretionary account by his member firm. **(NASD Case #C07990028)**

Noah Peter Grassi (CRD #2928628, Registered Representative, Ardmore, Pennsylvania) 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, Grassi consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information concerning matters relating to the termination of his employment by a member firm. **(NASD Case #C9A990020)**

Andrew Todd Greene (CRD #1943281, Registered Principal, New York, New York) submitted an Offer of Settlement pursuant to which he was censured, suspended from association with any NASD member in a supervisory capacity for 50 days, and required to requalify by passing the Series 24 exam prior to serving in a supervisory capacity with a member firm. Without admitting or denying the allegations, Greene consented to the described sanctions and to the entry of findings that he failed to exercise his supervisory obligations adequately by failing to require that persons under his control prepare scripts that presented a fair and balanced picture of risk factors or negative information relating to investments in securities. **(NASD Case #CAF990003)**

Ronald Ira Gross (CRD #860452, Registered Principal, Paradise Valley, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, suspended from association with any NASD member in any capacity for 45 days, and required to requalify as a Series 6 investment company and variable contracts products representative. Without admitting or denying the allegations, Gross consented to the sanctions and to the entry of findings that he engaged in private securities transactions and business activities outside the scope of his relationship with his member firm without giving

his firm prior written notice. **(NASD Case #C3A990032)**

Eliezer Gurfel (CRD #1409216, Registered Representative, Washington, DC) was censured and barred from association with any NASD member in any capacity. The SEC affirmed the findings of the National Adjudicatory Council (NAC) that Gurfel forged, or caused to be forged, the signature of the firm's president on commission checks totaling \$9,625.64, and converted the proceeds to his own use.

Gurfel has appealed this action to the U.S. Court of Appeals for the D.C. Circuit and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C9B950010)**

Alfred Robert Heiman (CRD #1962530, Registered Representative, Oklahoma City, Oklahoma) submitted an Offer of Settlement pursuant to which he was censured, fined \$7,500, suspended from association with any NASD member in any capacity for three months, and ordered to pay disgorgement of \$31,606. Without admitting or denying the allegations, Heiman consented to the described sanctions and to the entry of findings that he was the recipient of stock in IPOs through accounts in which he had a beneficial interest and these securities later traded at a premium in the secondary market (hot issues). The findings also stated that Heiman opened securities accounts with other member firms, and prior to opening such accounts or placing initial orders, failed to notify his member firm in writing that he had established and maintained such accounts, and failed to inform the executing firms in writing of his association with a member firm. Heiman also failed to notify his member firm that he had established securities accounts with an investment adviser prior to the execution of the initial transactions in these accounts. **(NASD Case #C05990006)**

Roy Wayne Helgeson (CRD #2662543, Registered Representative, St. Helens, Oregon) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$8,000, and suspended from association with any NASD member in any capacity for 20 days. Without admitting or denying the allegations, Helgeson consented to the described sanctions and to the entry of findings that he signed and submitted a Form U-4 that contained a false answer in that he did not disclose a bankruptcy petition, and failed to file amendments to his Form U-4 to disclose an investigation by the state of Oregon, a civil action that alleged violations of federal and state securities laws, and the bankruptcy petition. **(NASD Case #C3B990016)**

Wayne Ralph Horne (CRD #1740513, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any supervisory capacity for 15 days. Without admitting or denying the allegations, Horne consented to the described sanctions and to the entry of findings that he failed to supervise an individual adequately so as to be able to detect the unsuitable recommendations the individual made with respect to public customers. **(NASD Case #C07980045)**

Stuart Gordon Horowitz (CRD #2942375, Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Horowitz consented to the described sanctions and to the entry of findings that he failed to amend a Form U-4 to disclose that he was the subject of an investigation by the Florida bar and his license to practice law had

been suspended. Horowitz also failed to respond to NASD requests for information. **(NASD Case #C07980027)**

Frank James Hutton (CRD #2357906, Registered Representative, Brandon, Mississippi) was censured, fined \$757,500, barred from association with any NASD member in any capacity, and ordered to pay restitution in the amount of \$101,525.11. The sanctions were based on findings that Hutton sold stock out of the joint account of public customers, without the authorization of the customers, and forged their signatures on a check for almost the entire proceeds of the sale in the amount of \$29,971.70. The findings also stated that in order to conceal his conversion of these funds, Hutton caused the customers' address to be changed in his member firm's records so that they would not receive their account statement, prepared a fictitious account statement that failed to disclose the sale of the securities from their account, and mailed it to the customers. Furthermore, Hutton effected withdrawals totaling \$96,552.40 from the joint account of other public customers, converted the funds to his own use and benefit by forging the customers' signatures on checks, and maintaining possession of the funds, without the customers' knowledge or consent. Hutton also put through a false change of address for the customers in his firm's records and told the customers they would be receiving account statements only every six weeks. In addition, Hutton failed to respond to NASD requests for information. **(NASD Case #C05980017)**

Christopher John Kelley (CRD #2267149, Associated Person, Denver, Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and barred from association with any NASD

member in any capacity. Without admitting or denying the allegations, Kelley consented to the described sanctions and to the entry of findings that he completed and signed a Form U-4 and failed to answer truthfully all of the questions asked of him. According to the findings, when asked if he had ever been arrested or charged with a felony, Kelley answered in the negative when, in fact, he was arrested, charged, and pleaded guilty to two felonies. (NASD Case #C3A990028)

Daniel Ray Kirkley (CRD #1167528, Registered Representative, Tuscaloosa, Alabama) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$155,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kirkley consented to the described sanctions and to the entry of findings that he received \$11,000 from a public customer for the purpose of investing in mutual funds, failed and neglected to execute the purchases on the customer's behalf, and instead, converted the \$11,000 to his own use and benefit, without the customer's knowledge or consent. (NASD Case #C05990015)

Alan Edward Koeneman (CRD #273104, Registered Representative, Tucson, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Koeneman consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving his member firm prior written notice of his activities. The findings also stated that Koeneman engaged in business activities outside the scope of his employment with a member firm without providing prompt written

notice of these activities to his firm. (NASD Case #C3A990030)

Warren Howard Lamond, Jr. (CRD #1251644, Registered Representative, Brookline, Massachusetts) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Lamond failed to respond to NASD requests for information in connection with a customer complaint. (NASD Case #C11980005)

Luanne Christine Lembo (CRD #2469080, Registered Representative, Orlando, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she 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, Lembo consented to the described sanctions and to the entry of findings that she signed the name of a public customer to a letter requesting the wire transfer of funds, without the customer's knowledge or consent. (NASD Case #C9B990001)

Pier Luccarelli (CRD #1902896, Registered Principal, Fairfax, Virginia) was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for one year. The sanctions were based on findings that, on several occasions, Luccarelli falsely told a public customer that the value of securities accounts as set forth in the customer's monthly account statements was incorrect, and misled the customer as to the true current value of the accounts. (NASD Case #C07980077)

Gregory Paul Maggipinto (CRD #1042789, Registered Representative, San Jose, California) was censured, fined \$25,000, suspended from association with any NASD member

in any capacity for six months, and required to requalify by exam in all capacities. The NAC imposed the sanctions following appeal of a San Francisco District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Maggipinto effected securities transactions in the account of a public customer without the prior knowledge or consent of the customer.

Maggipinto has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C01970025)

Salvatore Charles Marchiano (CRD #1395812, Registered Principal, Morganville, 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, Marchiano consented to the sanctions and to the entry of findings that he failed to cooperate with an NASD investigation concerning allegations that he had an impostor sit for and complete the Series 24 exam on his behalf. (NASD Case #C10990079)

Jeffrey Tod Marshall (CRD #2043618, Registered Representative, Atlanta, Georgia) was censured, fined \$35,750, barred from association with any NASD member in any capacity, and ordered to pay \$150 in restitution. The sanctions were based on findings that Marshall received a \$150 check with an application from an individual to become associated with his member firm. Rather than submitting the application and check to his member firm, Marshall cashed the check and converted the proceeds to his own use and benefit. Marshall also failed to respond to NASD requests for information. (NASD Case #C07980066)

John Anthony Miller (CRD #1985176, Registered Representative, Cape Coral, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$520,000, barred from association with any NASD member in any capacity, and ordered to pay \$99,794.42 in restitution to his member firm. Without admitting or denying the allegations, Miller consented to the described sanctions and to the entry of findings that he recommended to public customers that they invest in a fixed rate annuity through a life insurance company, made misrepresentations to the customers regarding the rate of return of the investment, and received checks totaling \$100,236.52 from the customers for the annuities. The NASD determined that Miller deposited the checks in a bank account he had created in the name of the insurance company, made several monthly interest payments to some of the customers, and converted the remainder of the customers' funds to his own use. **(NASD Case #C07990039)**

Richard Vu Nguyen (CRD #2488905, Registered Representative, Fullerton, California) was censured, fined \$75,000, barred from association with any NASD member in any capacity, and ordered to pay \$32,499 in restitution to public customers. The sanctions were based on findings that Nguyen executed transactions through a member firm while not registered with the NASD. Nguyen also failed to respond completely to NASD requests for information and failed to appear for an interview with the NASD staff. **(NASD Case #C02980028)**

Gregory John Pocock (CRD #1060326, Registered Principal, Roswell, Georgia) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and barred

from association with any NASD member in any capacity. Without admitting or denying the allegations, Pocock consented to the sanctions and to the entry of findings that he forged his estranged wife's signature on checks totaling \$12,375, drawn from their joint brokerage account. **(NASD Case #C07990030)**

Neil Randolph Post (CRD #1423171, Registered Principal, Douglaston, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,393, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam in all capacities. If Post fails to requalify, he will be suspended from acting in each such capacity until each exam is successfully completed. Without admitting or denying the allegations, Post consented to the described sanctions and to the entry of findings that he accepted trades for a public customer's account at his member firm from a third party whom he believed had the authority to enter trades for that account, failed to receive a written power of attorney conveying authority to the third person, and should not have accepted these trades and executed them. The findings also stated that Post prepared and entered into a written agreement with the public customer, without his member firm's knowledge or approval, to settle the customer's complaints regarding alleged losses which resulted from the aforementioned securities transactions. **(NASD Case #C10990078)**

Terry Don Rader (CRD #369900, Registered Principal, 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 Rader failed to respond to NASD requests for information. **(NASD Case #C06980015)**

Rene Reyes (CRD #2063715, Registered Representative, New Orleans, Louisiana) submitted an Offer of Settlement 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, Reyes consented to the described sanctions and to the entry of findings that he received a check for \$5,000 from a public customer to invest in IPOs, failed to invest these funds on the customer's behalf, and instead, converted the funds to his own use and benefit, without the customer's knowledge or consent. The findings also stated that Reyes failed to notify his member firm, in writing, that he had established and maintained securities accounts with other member firms, and failed to inform those firms of his association with a member firm. Reyes also failed to respond to NASD requests for information. **(NASD Case #C05980007)**

Fernando Patricio Rodriguez (CRD #1587712, Registered Principal, Long Beach, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$14,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rodriguez consented to the sanctions and to the entry of findings that a public customer brought cash payments totaling \$800 to Rodriguez for the purpose of paying Individual Retirement Account fixed annuity premiums. The NASD determined that, instead, Rodriguez converted the \$800 to his personal use. **(NASD Case #C02990032)**

Timothy Lee Rose (CRD #2314205, Registered Representative, Maryland Heights, Ohio) 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,

Rose consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information in writing concerning his apparent negotiation of checks received from a public customer. **(NASD Case #C9A990024)**

Kirk Francis Ruffler (CRD #2580976, Registered Representative, Perrineville, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$110,000, barred from association with any NASD member in any capacity, and ordered to pay \$42,988.50 in restitution to public customers. Without admitting or denying the allegations, Ruffler consented to the described sanctions and to the entry of findings that he effected securities transactions in the accounts of public customers without the knowledge, consent, or authorization of the customers. Ruffler also failed to follow customer orders to sell securities and failed to respond to NASD requests for information and/or documentation. **(NASD Case #C10990082)**

Ricardo Mario Saltalamachea (CRD #1825946, Registered Principal, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$1,000, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Saltalamachea consented to the sanctions and the entry of findings that, in an attempt to obtain a public customer's decision concerning a miscommunicated purchase and sale order, he made misstatements about his ability to cancel and re-bill a purchase into his own account, as well as repeatedly calling the customer and his wife in an attempt to resolve the matter. **(NASD Case #C10990080)**

Robert John Savala (CRD #2261797, Registered Principal, Holmdel, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Savala consented to the sanctions and to the entry of findings that he solicited public customers to invest approximately \$96,686.12 with a non-member entity for the stated purpose of investing in short-term U.S. Treasury Bills and for purchasing investment company shares. Savala deposited the customers' funds in a bank account he controlled and used the proceeds for his own purposes. The findings also stated that Savala prepared false statements for the accounts of public customers reflecting investment positions when, in fact, no such investment positions existed. **(NASD Case #C10990073)**

Robert Andrew Saxe (CRD #2435726, Registered Representative, St. Petersburg, Florida) was censured, fined \$35,000, suspended from association with any NASD member in any capacity for 30 business days, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Saxe misrepresented the rating of certain municipal securities to a public customer in connection with the purchase of municipal securities and failed to respond to NASD requests for information.

Saxe's suspension commenced with the opening of business on June 21, 1999, and will conclude at the close of business on August 2, 1999. **(NASD Case #C07980048)**

David Harris Shapiro (CRD #2586431, Registered Principal, New York, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$100,000, and barred from association with any

NASD member in any capacity. Without admitting or denying the allegations, Shapiro consented to the described sanctions and to the entry of findings that a former member firm, acting through Shapiro, solicited customers for the purchase of an IPO, received payments for the purchase of interests in the IPO prior to the effective date of the offering, failed to ensure that individuals were qualified and registered in the appropriate capacity with the firm prior to permitting them to engage in the investment banking or securities business and to function as representatives, failed to comply with the terms of its restrictive agreement by participating in the solicitation of a firm commitment underwriting of an IPO offering, and operated a branch office without notifying the NASD. The findings also stated that the firm, acting through Shapiro, entered into an agreement with another member firm whereby orders or indications for the purchase of the IPO would be executed by the other firm without written discretionary authorization of the public customers. The NASD also determined that the firm, acting through Shapiro, failed to record these customer orders on its blotters or make any other records. In addition, the former firm failed to maintain the minimum required net capital, prepared inaccurate trial balances and net capital computations, and filed an inaccurate FOCUS Part IIA Report with the NASD. **(NASD Cases #C8A980097 and C8A990014)**

Frederick Douglass Smith (CRD #2167780, Registered Representative, Los Angeles, California) was censured, fined \$151,431.35, barred from association with any NASD member in any capacity, and ordered to pay \$14,286.27, plus interest, in restitution to public customers. The sanctions were based on findings that Smith received funds totaling \$14,286.27 from public customers for investment purposes, failed to invest

the customers' funds, and instead, converted the funds to his personal use and benefit. **(NASD Case #C02980070)**

Timothy A. Smith (CRD #2263079, Registered Representative, St. Cloud, Florida) was censured, fined \$40,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Smith breached his member firm's internal policies by accepting \$2,000 in cash from a public customer for an investment in a mutual fund, failed to record the transactions on the branch office trade blotter, and failed to process the transaction through his firm's headquarters. Smith also caused his member firm's books and records to be inaccurate by failing to follow the firm's internal policies and procedures regarding the receipt, recording, and processing of customer funds. **(NASD Case #C07980080)**

Edward James Stock, Jr. (CRD #2379991, Registered Representative, Nesconset, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Stock consented to the described sanctions and to the entry of findings that he caused unauthorized transactions to be made in the account of a public customer, and required that another customer purchase aftermarket shares as a condition of purchasing IPO units.

Stock's suspension began July 1, 1999 and will conclude at the close of business on July 30, 1999. **(NASD Case #CAF980031)**

David Lewis Swartzendruber (CRD #2185516, Registered Representative, Telford, 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 four months. Without admitting or denying the allegations, Swartzendruber consented to the described sanctions and to the entry of findings that while employed with a member firm, he opened a securities account in his name with another member firm, and failed to notify his employing firm in writing that he had opened the account, and failed to disclose to the executing member firm his association with another firm. The findings also stated that Swartzendruber made false and misleading statements to his member firm regarding the disposition of certain securities held in a personal brokerage account. **(NASD Case #C9A990023)**

Robert Courtney Temple II (CRD #2499499, Registered Representative, Salina, Kansas) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Temple failed to respond to NASD requests for information. **(NASD Case #C04980074)**

Donald Lewis Turney (CRD #2409226, Registered Representative, Babylon Village, New York) was censured, fined \$70,000, barred from association with any NASD member in any capacity, and ordered to pay \$64,849.50, plus interest, in restitution to a public customer. The sanctions were based on findings that Turney solicited members of the public to become customers and to purchase securities by making material misrepresentations and by omitting to disclose material information about the securities. Turney also projected the future price of a security to a customer without having a reasonable basis, and executed unauthorized

transactions in the accounts of public customers. Turney also failed to follow a customer's instructions to sell stock. **(NASD Case #C3A970071)**

Christiaan Pieter Van Der Put (CRD #2921664, Associated Person, Pittsburgh, Pennsylvania) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Van Der Put forged and falsified a document concerning the duration and nature of his employment with a member firm and his salary for the purpose of obtaining credit. **(NASD Case #C9A980035)**

Victor Ming Wang (CRD #1982694, Registered Principal, New York, New York) and **Gregg Adam Thaler (CRD #1836166, Registered Principal, New York, New York)** were each censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Wang and Thaler failed to appear for on-the-record interviews and to provide testimony. **(NASD Case #CAF980030)**

Louis Alberto Williams, Jr. (CRD #2120870, Registered Representative, Tucson, Arizona) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Williams consented to the described sanctions and to the entry of findings that he executed transactions in the accounts of public customers without written authorization and acceptance of the accounts as discretionary. The findings also stated that Williams entered erroneous information on order tickets with respect to certain transactions in which he exercised discretion without written authority. **(NASD Case #C3A970028)**

Individual Fined

Drew Edgar Schaefer (CRD #1199891, Registered Principal, Manasquan, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$25,000. Without admitting or denying the allegations, Schaefer consented to the sanctions and to the entry of findings that he failed to report to the NASD statistical and summary information regarding customer complaints that his member firm had received. **(NASD Case #C10990061)**

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of June 11, 1999. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Cressida Capital, Inc. a/k/a Norfolk Securities Corp. (CRD #32352, New York, New York) and Jeffrey Allen Van Blarcom (CRD #1971041, Registered Principal, Mahwah, New Jersey) were censured and fined \$50,000, jointly and severally. Van Blarcom was fined an additional \$50,000, individually, and barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Van Blarcom, failed to timely report or otherwise inform the NASD of statistical and summary information regarding customer complaints. In addition, the firm, acting through Van Blarcom, failed to establish, maintain, and enforce written supervisory procedures designed to ensure compliance with the NASD customer complaint reporting requirements, and failed to

respond to NASD requests for documents. Furthermore, the firm, acting through Van Blarcom, permitted individuals to continue to perform duties as registered persons when they had failed to comply with the Regulatory and Firm Elements of the NASD's Continuing Education rules. Moreover, the firm, acting through Van Blarcom, failed to delegate responsibility for compliance with the Firm and Regulatory Elements; failed to maintain written procedures for compliance with the Firm and Regulatory Elements; failed to maintain written supervisory procedures that would mandate an annual needs analysis, a written training plan, and implementation plan; and failed to maintain books and record to demonstrate compliance with the Firm Element, including the maintenance of a written needs analysis, a written training plan, the materials used in training, and a list of dates of training sessions.

The action has been called for review by the NAC and Van Blarcom appealed this action to the NAC. The sanctions are not in effect pending consideration of the appeal. **(NASD Cases #C10960043, C10960161, and C10970019)**

Edward Michael Gabbert (CRD #2798883, Registered Representative, Wilmington, Delaware) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Gabbert failed to respond to NASD requests for information.

Gabbert has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C9A980044)**

Edwin Leslie Lawrence, Jr. (CRD #2282684, Registered Representative, Dix Hills, New

York) was censured, fined \$75,000, barred from association with any NASD member in any capacity, and ordered to pay restitution of \$76,639.75, plus interest, to public customers. The sanctions were based on findings that Lawrence executed transactions in the accounts of public customers without the knowledge or consent of the customers, and in the absence of written or oral authorization to exercise discretion in the accounts.

Lawrence has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C10980088)**

Michael Allen Usher (CRD #734581, Registered Principal, Greeley, Colorado) was censured, fined \$25,000, barred from association with any NASD member as a general securities principal, and ordered to disgorge \$3,914.70, plus interest, in commissions. The sanctions were based on findings that Usher conducted a securities business while his and his broker/dealer's registrations were suspended.

Usher has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C3A980069)**

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.

Kent Anderson (CRD #2717386, Registered Representative, Waterford, Michigan) was named as a respondent in an NASD complaint alleging that he instructed a public customer to endorse a \$2,958 refund check "Payable to the Equitable," with the understanding that the check would be applied as the initial premium for a variable life insurance policy with Anderson's member firms. The complaint alleges that Anderson then cashed the refund check, and used the funds for his own benefit or for the benefit of someone other than the customer, without the customer's knowledge or authorization. The complaint also alleges that Anderson failed to respond to NASD requests for information. **(NASD Case #C8A990053)**

Neil Howard Brauner (CRD #2571484, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he induced the purchase or sale of shares of stock by means of a manipulative, deceptive, or other fraudulent device or contrivance in that he made misstatements of material facts in connection with the offer and sale of shares of stock. The complaint also alleges that Brauner guaranteed a customer against loss by repeatedly assuring a public customer that he would not lose any money on his potential investment and promising to return the customer's original investment amount in the event that the securities depreciated in value or if the securities were not profitable. The complaint alleges that Brauner executed transactions in the account of a public customer without the knowledge or consent of the customer, and in the absence of the customer's written or oral authorization to Brauner to exercise discretion in the account. The complaint also alleges that Brauner failed to respond truthfully to NASD requests for information. **(NASD Case #C10990081)**

D.L. Cromwell Investments, Inc. (CRD #37730, Boca Raton, Florida), Denise Lynn Crowley-DelRossi (CRD #2308457, Registered Representative, Boca Raton, Florida), Lloyd Sylvester Martin Beirne (CRD #1982417, Registered Principal, Boca Raton, Florida) and Matthew Greenwald (CRD #229262, Registered Principal, Boca Raton, Florida) were named as respondents in an NASD complaint alleging that Crowley-DelRossi recommended and implemented a course of unsuitable trading in the accounts of public customers based upon the customers' age, disability, income needs, trading inexperience, investment objectives, financial situation, and the concentration of positions. The complaint alleges that Beirne and Greenwald failed to supervise Crowley-DelRossi adequately so as to detect the unsuitable recommendations made with respect to public customers. The complaint alleges that the firm failed to establish and maintain a supervisory system to supervise each of its registered representatives that was reasonably designed to achieve compliance with applicable securities laws, regulations, and the NASD rules. **(NASD Case #C07990037)**

Gerard Joseph D'Amaro (CRD #2385619, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he provided to a public customer correspondence in the form of letters, facsimile transmissions, and telexes written by D'Amaro, containing false and misleading representations. The complaint also alleges that D'Amaro failed and neglected to obtain prior approval of the correspondence from a principal of his member firm when he knew or should have known that prior approval of outgoing correspondence was required pursuant to the NASD rules. **(NASD Case #C05990019)**

Vincent Grieco (CRD #1568462, Registered Principal, West Islip, New York) was named as a respondent in an NASD complaint alleging that he directly and/or indirectly, singly and in concert with numerous registered representatives under his control and direction, engaged in fraudulent practices with much of the conduct occurring at Grieco's direction or with his encouragement, or, at a minimum, with his tacit approval. The complaint alleges that this fraudulent conduct included making baseless and improper price predictions, omitting or negating materially negative or cautionary information about the security being recommended, making false statements asserting knowledge of inside information, making material misrepresentations regarding specific issuers, engaging in unauthorized trading in public customer accounts without having discretionary trading authority for the relevant accounts, and refusing or failing to execute sell orders. The complaint alleges that by Grieco's own conduct, and through those registered representatives under his direction and control, induced the purchase or sale of securities by means of manipulative, deceptive and other fraudulent devices, and contrivances. **(NASD Case #CAF990008)**

Keith Taylor Hamilton (CRD #1281968, Registered Representative, Tallahassee, Florida) was named as a respondent in an NASD complaint alleging that he caused proceeds in the amount of \$14,033.97 to be withdrawn from a public customer's IRA account, without her knowledge or consent, misrepresented to the customer that these funds would be deposited in an IRA rollover account, and failed and neglected to effect the rollover of the funds into an IRA account. The complaint also alleges that Hamilton received \$31,352.27 from public customers for the purpose of establishing and contributing to individual IRA rollover

accounts, and failed and neglected to either establish the rollover IRA accounts on the customers' behalf or to deposit the funds appropriately. (NASD Case #C05990017)

Lakeside Trading (CRD #39418, Metairie, Louisiana) and (Thomas Griswold Russell, CRD #2669033, Registered Principal, Metairie, Louisiana) were named as respondents in an NASD complaint alleging that the firm, acting through Russell, its president and sole principal, improperly used public customer funds in that Russell executed transactions in the account of a customer, then directed the trading profits from the customer's account to the firm by placing excessive commissions on certain trades. The complaint alleges that Russell effected discretionary trades in the account of the customer without obtaining written discretionary authority from the affected customer, and guaranteed the customer against losses in a securities account maintained at his firm by telling the customer that only profitable transactions would be placed in his account. The complaint also alleges that Russell caused the execution of transactions in his personal account maintained at his firm's clearing firm, for which transactions he knowingly did not have the financial resources to settle, nor the ability to meet the initial margin requirements, and failed to disclose to the clearing firm his inability to pay for these transactions. The complaint also alleges that Russell effected unauthorized transactions totaling approximately \$275,225 in the account of a public customer with the intention of transferring gains in that account to his own account; the transactions resulted in eventual realized losses to the customer of approximately \$97,430. The complaint further alleges that Russell willfully misled representatives of his clearing firm by misrepresenting that he had sold over \$1.7 million in unsecured positions in the stock in his personal

account, and by so doing, prevented the clearing firm from taking action to limit losses in the account, so that he could continue to maintain the positions in anticipation that the values would increase. The complaint alleges that the firm, acting through Russell, failed to timely file its FOCUS Part IIA and Schedule I with the NASD, and failed to file audited annual financial statements for a one-year period. The complaint also alleges that the firm, acting through Russell, employed its initial advertisement in the form of an Internet Web site, without having previously filed such material with the NASD prior to use, and continuously revised such advertisements without filing prior to use as required by the NASD. The complaint further alleges that the firm, acting through Russell, employed advertising, in the form of an Internet Web site, that failed to provide a sound basis for evaluating the services provided by the firm and included exaggerated and unwarranted statements that were potentially misleading. The complaint also alleges that Russell failed to respond to NASD requests for information. (NASD Case #C05990018)

Mark Alan McGee (CRD #2422551, Registered Representative, Newcastle, Washington) was named as a respondent in an NASD complaint alleging that he received a check in the amount of \$5,079 from a public customer for investment purposes, and the customer did not receive either the shares of stock he intended to purchase, nor did McGee return the funds to him. The complaint also alleges that McGee received a total of \$26,000 from public customers for investment in a fund they were told by McGee was managed by a group of financial advisors in the firm's Seattle office, when in fact, there was no such product provided by the firm, and the customers' funds were not placed in a bona fide investment, nor did McGee return the funds to them. The

complaint also alleges that McGee failed to respond to NASD requests for information. (NASD Case #C3B990017)

Erwin Allen Porges (CRD #1222183, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he caused securities to be purchased in a joint account maintained by public customers, even though such purchase of securities had not been authorized by the affected customers. The complaint also alleges that Porges failed to respond to NASD requests to provide testimony. (NASD Case #C8A990056)

John Richard Russell (CRD #1320693, Registered Representative, Albuquerque, New Mexico) was named as a respondent in an NASD complaint alleging that he received \$2,435.54 of a public customer's mutual fund proceeds, failed to promptly invest the proceeds in any investment or place the proceeds in an account in the name of the customer, maintained possession and control of the funds, and when confronted by the customer, issued the customer a personal check in the amount of \$2,400. The complaint also alleges that Russell failed to respond completely to NASD requests for information and documentation. (NASD Case #C3A990039)

Gregory John Shultis (CRD #1934789, Registered Representative, Rochester, New York) was named as a respondent in an NASD complaint alleging that he received a \$400 check made payable to Shultis from a public customer for a financial planning fee, cashed the check, and deposited the proceeds in his checking account when his member firm's policy required all client checks to be made out to the company and expressly prohibited the deposit of client funds in a representative's personal

account. The complaint alleges that had Shultis properly handled the customer's funds, he would have been entitled, at most, to compensation equaling 33 percent of the fee, or \$132, and by retaining the full \$400 for his own use and benefit, Shultis converted \$268 in funds properly belonging to his member firm and to which he was not entitled. (NASD Case #C8B990016)

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

The Glaser Capital Corp., Cincinnati, Ohio (June 17, 1999)

Kronos Investments Limited, Oklahoma City, Oklahoma (May 14, 1999)

Pellett Investments, Inc., Missoula, Montana (May 14, 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.

Bob Moore Investment Securities, Inc., West Palm Beach, Florida (May 14, 1999 - May 24, 1999)

CDH Capital Corporation, Irving, Texas (June 4, 1999)

Income Network Company, Irvine, California (May 14, 1999)

Lakeside Trading, Metairie, Louisiana (May 14, 1999)

Qwon Investment Consultants, Inc., Denver, Colorado (June 4, 1999)

W.J. Askins & Company, Inc., Washington, DC (May 19, 1999 - June 11, 1999)

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

Coffey, Stephen M., Cincinnati, Ohio (June 17, 1999)

Dalton, Lance R., Los Angeles, California (June 17, 1999)

Fang, Kai, Flushing, New York (May 14, 1999)

Feintuch, Ira B., Englewood, New Jersey (May 14, 1999 - May 21, 1999)

Gerhauser, Jr., William C., Brentwood, New York (May 14, 1999)

Gerhauser, Sr., William H., Surrey, Great Britain (May 14, 1999)

Kelleher, Michael A., Boston, Massachusetts (May 14, 1999)

Pellett, Ronald N., Missoula, Montana (May 14, 1999)

Perry, Sean M., Rancho Cucamonga, California (June 17, 1999)

Peters, James Basil, Oxnard, California (May 14, 1999)

Pritula, James S., Orlando, Florida (May 14, 1999)

Shvarts, Aleksandr, Brooklyn, New York (June 17, 1999)

Van Ahn, Thomas K., Oshkosh, Wisconsin (June 17, 1999)

Whitman, Jr., Bruce N., Stamford, Connecticut (June 17, 1999)

Individuals Suspended Pursuant To NASD Rule Series 9510 For Failure To Pay Arbitration Awards

Shui, Amy, Long Branch, New Jersey (June 1, 1999 - June 17, 1999)

Zimmerman, June Sayer, San Diego, California (June 1, 1999)

NASD Regulation Censures And Fines Lehman Brothers \$100,000 For Short Sale, Confirmation Disclosure, And Free-Riding Violations

NASD Regulation announced that Lehman Brothers, Inc., of New York, NY, has been censured and fined \$100,000 after settling charges that it violated NASD rules regarding the execution and reporting of short sales, mutual fund confirmation disclosure, and free-riding and withholding requirements.

Lehman Brothers, while neither admitting nor denying the findings, was also cited for inadequate supervision over the areas in which the violations occurred during periods from February 1995 through February 1997. The violative conduct was uncovered during an examination of the firm by NASD Regulation's Seattle District Office.

NASD Regulation found that the firm executed 50 impermissible short sale transactions on 14 days and also failed to properly designate the reports of the transactions with a short sale modifier. The NASD's Short Sale Rule prohibits broker/dealers from placing short sale transactions in Nasdaq National Market stocks at the bid price or below the bid price, when it is below the preceding inside bid. The Short Sale Rule was designed to prohibit market destabilizing and

abusive short sales in declining markets.

Lehman Brothers was also sanctioned for failing to include required disclosure language on over 4,100 confirmations mailed to customers who had purchased over \$165 million of mutual funds which were subject to sales charges. NASD rules require prominent disclosure on each confirmation informing the customer that he or she may pay a sales charge on the sale of the shares.

NASD Regulation further found violations of its Free-Riding Rule. The Free-Riding Rule ensures brokerage firms make a bona fide public distribution of “hot” IPOs – those that trade at a premium in the

market immediately after trading begins. The Rule prohibits some individuals from purchasing these “hot” IPOs entirely, and prohibits others from IPO purchases without the requisite documentation. The purpose of the Rule is to protect the integrity of the public offering system by ensuring that shares are sold to the general public and that broker/dealers do not withhold the securities for their own benefit or use them to reward persons who are in a position to direct future business to the broker/dealer. The Rule also assures that members do not take unfair advantage of their “insider position” in the industry to the detriment of public investors.

NASD Regulation found that from January 1996 through October 1996,

Lehman Brothers sold over 1 million shares, worth over \$16 million, to restricted persons or to conditionally restricted accounts, without making an appropriate inquiry about the customers or documenting in writing the permissibility of the sales. The firm also filed inaccurate information with the NASD regarding the sales.

Finally, NASD Regulation found that Lehman Brothers failed to take reasonable steps to ensure that adequate supervision in each of these areas was being carried out, and that failures in these areas were noted and addressed in a timely manner.

© 1999, National Association of Securities Dealers, Inc. (NASD). All rights reserved.