

Disciplinary Actions

Disciplinary Actions Reported For June

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, June 21, 1999. The information relating to matters contained in this *Notice* is current as of the end of May 20, 1999.

Firm Expelled, Individual Sanctioned

TAJ Global Equities, Inc. (CRD #31768, Tampa, Florida) and **Wilber Glen Jurdine (CRD #1773721, Registered Principal, South Florida, Florida)** were censured and fined \$100,000, jointly and severally. In addition, the firm was expelled from NASD membership and Jurdine was barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Jurdine, engaged in options transactions and failed to register an options principal, conducted a securities business while maintaining insufficient net capital, and failed to give telegraphic notice of its net capital deficiency. In addition, the firm, acting through Jurdine, filed inaccurate FOCUS reports, kept inaccurate books and records, engaged in inaccurate trade reporting activities, and failed to report certain customer complaints.

Furthermore, the firm, acting through Jurdine, failed to develop and implement a continuing education program, breached its restrictive agreement with the NASD by servicing discretionary accounts, and Jurdine failed to respond to NASD requests for information. **(NASD Case #C07980041)**

Firms Fined, Individuals Sanctioned

Chatfield Dean & Company, Inc. (CRD #14714, Greenwood Village, Colorado) and **Scott Carothers (CRD #1899247, Registered Principal, Greenwood Village, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$5,000, jointly and severally, and the firm was fined an additional \$6,000. Carothers was suspended from association with any NASD member in any capacity for one day and ordered to requalify as a financial and operations principal. Without admitting or denying the allegations, the firm and Carothers consented to the described sanctions and to the entry of findings that the firm, acting through Carothers, conducted a securities business while failing to maintain its minimum required net capital. The findings also stated that the firm failed to report customer complaints to the NASD on a timely basis and failed to have adequate written supervisory procedures to address compliance with NASD reporting requirements. **(NASD Case #C3A990024)**

Russell Investment Corporation n.k.a. Lakeside Trading (CRD #39418, Metairie, Louisiana) and **Thomas Griswold Russell (CRD #2669033, Registered Principal, Metairie, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$26,500, jointly and severally. In addition, Russell was suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Russell, conducted a securities business while failing to maintain the minimum required net capital, and prepared and maintained an inaccurate trial

balance, general ledger, and computation of net capital. The findings also stated that the firm, acting through Russell, failed to timely file an amended Form BD with the NASD listing the firm's current address and all direct owners, executed proprietary transactions using the Small Order Execution SystemSM (SOESSM), executed two orders within five minutes of each other on the same side of the market in the same security through SOES that, when aggregated, exceeded SOES maximum order sizes in the security. In addition, the NASD found that the firm, acting through Russell, failed to prepare, maintain, and enforce adequate supervisory procedures addressing the execution of transactions using SOES. The firm also failed to timely file its quarterly FOCUS Part IIA Report, and failed to respond fully, accurately, and timely to NASD requests for documentation, and in some instances, provided false and/or misleading information.

(NASD Case #C0599008)

Firms And Individuals Fined

Cantella & Co., Inc. (CRD #13905, Boston, Massachusetts) and **Vincent Michele Cantella (CRD #39796, Registered Principal, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$50,000, 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 Cantella, failed to establish, maintain, and enforce procedures reasonably designed to achieve compliance with securities laws and applicable NASD rules in that the firm was unable to meet its required reserve deposit for its reserve computation. The findings also stated that Cantella failed to exercise, adequately or reasonably, his supervisory responsibilities with the firm. **(NASD Case #C11970039)**

Financial Advantage Brokerage Services, Inc. n.k.a. Corporate Funding Ltd. (CRD #37027, Minot, North Dakota), Roger William Domres (CRD #2190341, Registered Principal, Minot, North Dakota), Mark Steven Guttormson (CRD #1966356, Registered Principal, Minot, North Dakota), Bruce Allan Hager (CRD #1358936, Registered Principal, Fargo, North Dakota), and Bradley Paul Wells (CRD #1257278, Registered Principal, Minot, North Dakota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$25,000, jointly and severally. In addition, the firm was ordered to provide the following information to the NASD: (a) documentation that the firm has established an audit committee; (b) documentation that the firm has appointed an independent director to its board of directors and the audit committee; and (c) documentation that the firm has put in place a system for periodic reports to the firm's shareholders. If the firm does not provide this documentation to the NASD within the required time frame, it shall be suspended from membership with the NASD until it provides the requested information. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Wells, Domres, Hager, and Guttormson, failed to file offering documents for intrastate offerings with the NASD, failed to submit to the NASD an estimate of the maximum underwriting discount or commission that the firm anticipated receiving as a result of its participation in the offerings and any documents and information pertaining to the terms, conditions, and arrangements relating to the underwriting or distribution of such shares. The findings also stated that the firm, acting through Wells, Domres, Hager, and Guttormson, sold these offerings without the

submissions and proceeded without obtaining "no objection" letters to the underwriting terms and arrangements of the offerings; participated in the underwriting and/or distribution of the firm's stock without retaining a qualified independent underwriter to conduct due diligence and provide a pricing opinion; failed to have the qualified independent underwriter act as manager of the offerings, which was required since the firm had not been engaged in the investment banking or securities business for the five-year period immediately preceding the offering; failed to establish an audit committee for the firm within 12 months after its initial offering; and failed to appoint to its board of directors and the audit committee a public director to serve as a committee member to protect the interests of the investors. The firm, acting through Wells, Domres, Hager, and Guttormson, also failed to provide ongoing periodic reports to the firm's shareholders which would inform shareholders of the current condition of the firm. **(NASD Case #C04990019)**

Marquis Financial Services of Indiana, Inc. (CRD #20733, Valparaiso, Indiana) and **Timothy Martin Scannell (CRD #1552763, Registered Principal, Valparaiso, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$18,000, 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 Scannell, effected options transactions while no partner or officer of the firm was registered as a registered options principal or designated to serve as the firm's senior registered options principal, and failed to identify specifically a senior registered options principal who was responsible for the diligent supervision of all of its customer accounts

and all orders in these accounts. The findings also stated that the firm, acting through Scannell, failed to comply with the terms of its membership agreement when it effected options transactions while agreeing to conduct only certain types of securities business that did not include such transactions. **(NASD Case #C8A990033)**

Firms Fined

Barington Capital Group, L.P. (CRD #29383, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$23,500, and fined \$2,000, jointly and severally with an individual. In addition, the firm was required to pay \$3,815 in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to implement and enforce adequate written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations, and submitted inaccurate free-riding questionnaires to the NASD for several offerings. In addition, the firm failed to obtain required documentation on a timely basis in connection with "hot issue" purchases by customer accounts. The findings also stated that the firm participated in contingency offerings, failed to deposit investor funds in an independent escrow account, and failed to include in the private placement memoranda a statement that persons associated with the firm would be purchasing a portion of the offering. In addition, the NASD determined that the firm failed to execute customer limit orders in some instances and to timely execute other customer limit orders in others. **(NASD Case #C04990018)**

Interfirst Capital Corporation (CRD #7659, Los Angeles, California)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$10,000, ordered to offer rescission or early redemption to all investors in a contingent offering, and to the extent the offer of rescission is accepted by any investors, the firm was ordered to exchange each investor's interest in the investment for full and complete restitution and to provide proof of the required rescission or early redemption offers to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it offered and sold investments in a contingent offering of securities and failed to deposit and retain customer funds in a separate escrow account until the minimum number of units had been sold. **(NASD Case #C02990023)**

NationsBanc Montgomery Securities LLC (CRD #4357, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$15,000, and required to pay \$968.75, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable securities laws and regulations regarding limit orders. In the execution of customer orders, the firm failed to use reasonable diligence to ascertain the best inter-dealer markets for securities and sell in such markets so that the resultant prices to customers were as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to immediately display customer limit orders in the firm's public quote where each such order was at a better price than the firm's public quote or at a price equal

to the firm's 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 minimus* change in relation to the size associated with the firm's bid or offer. In addition, the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures with respect to: ACT compliance, trade reporting, the Securities and Exchange Commission's (SEC) Order Handling Rules, the Limit Order Protection Interpretation, best execution, anti-competitive practices, the use of SOES, and the annual review of the firm's OTC Trading Department. **(NASD Case #CMS990039)**

Paradise Valley Securities, Inc. (CRD #18501, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$12,500, jointly and severally, with two individuals. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, in connection with a private offering of securities, extended the date by which the minimum number of units was required to be sold without making a reconfirmation offer to the persons who had purchased units prior to the termination date stated in the offering materials. The findings also stated that the firm failed to conduct a needs analysis, prioritize its training needs, or develop a training plan to comply with the Firm Element Continuing Education requirement. **(NASD Case #C3A990019)**

RBC Dominion Securities Corporation (CRD #6579, 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 con-

sented to the described sanctions and to the entry of findings that the firm permitted individuals to act in the capacity of general securities principals prior to their properly qualifying and becoming registered in that capacity. **(NASD Case #C10990055)**

Securities America, Inc. (CRD #10205, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$50,000, and required to retain an independent consulting firm for one year to review the firm's compliance and written supervisory procedures relating to the review and approval of new accounts and daily trading activity effected in the firm's branch offices to determine their adequacy and consistency with applicable laws and regulations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish adequate written supervisory procedures designed to detect and prevent unsuitable trading activity. The firm also failed to supervise an individual adequately in that the actions taken by the firm were insufficient to detect or prevent his unsuitable trading activity. **(NASD Case #C07990026)**

Sherwood Securities Corp. (CRD #7172, Jersey City, New Jersey) submitted an Offer of Settlement pursuant to which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute purchase or sell orders at the firm's published bid or offer and failed to honor its bid or offer quotations. **(NASD Case #CMS970018)**

Individuals Barred Or Suspended

Larry Jon Ames (CRD #1295093, Registered Principal, Miami, Florida) 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 10 business days, and required to pay \$4,242.66, plus interest, in restitution to a member firm. Without admitting or denying the allegations, Ames consented to the described sanctions and to the entry of findings that he diverted customer transactions to his personal broker number at his member firm and as a result, received \$4,242.66 in net commissions, without receiving prior explicit approval from his member firm. **(NASD Case #C07990021)**

Brian Douglas Angiuli (CRD #1867364, Registered Representative, Port Washington, New York) was censured, fined \$15,000, suspended from association with any NASD member in any capacity for one year, and ordered to requalify as a general securities representative. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of a Philadelphia District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Angiuli executed unauthorized transactions in the account of a public customer. **(NASD Case #C9B960032)**

Everette Ward Artist (CRD #864926, Registered Representative, Phoenix, Arizona) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Artist failed to respond to NASD requests for information. **(NASD Case #C3A980036)**

Arthur Bruce Bahlav (CRD #1191483, Registered Principal,

New York, New York) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Bahlav consented to the described sanctions and to the entry of findings that he executed a promissory note in the amount of \$21,906 with public customers, and after making an initial payment of \$7,326, failed to make either of the two subsequent monthly payments totaling \$14,580. **(NASD Case #C05970036)**

Marcos Beltran Barcelo (CRD #2355671, Registered Principal, Santa Fe Springs, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$81,614.80, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Barcelo consented to the described sanctions and to the entry of findings that he received commission checks in the total amount of \$322.96 issued by his member firm and payable to an employee under his supervision. According to the findings, rather than giving the checks to the employee, Barcelo converted the checks to his own use and benefit by endorsing and depositing the checks in his wife's personal bank account without the employee's knowledge or consent. **(NASD Case #C02990021)**

Anthony Vito Biondo (CRD #2432635, Registered Representative, Valley Stream, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Biondo consented to the described sanctions and to the entry of findings that he failed to respond

to NASD requests for information. **(NASD Case #C10980106)**

Angelo John Bosco (CRD #2184908, Registered Representative, Huntington, 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 Bosco failed to respond to NASD requests for information regarding a customer complaint. **(NASD Case #C10980061)**

Lilia Frianeza Cayabyab (CRD #2911603, Registered Representative, Sherman Oaks, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Cayabyab consented to the described sanctions and to the entry of findings that she submitted a Form U-4 to her member firm that failed to disclose that she was the subject of an embezzlement conviction. **(NASD Case #C02990018)**

Jeffrey John Chaimowitz (CRD #2589437, Registered Principal, Rock Point, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Chaimowitz consented to the described sanctions and to the entry of findings that he effected transactions in public customer accounts without the prior authorization of the customers. The findings also stated that Chaimowitz made material misrepresentations, omitted to disclose material facts, and predicted the future prices of securities to public customers in connection with solicitations to sell securities. Furthermore,

the NASD determined that Chaimowitz received instructions from public customers to sell securities from their accounts and failed to sell the securities. **(NASD Case #C3A990018)**

Maria Magdalena Coats (CRD #2785906, Associated Person, Moreno Valley, California) submitted an Offer of Settlement pursuant to which she was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Coats consented to the described sanctions and to the entry of findings that she submitted to her member firm a Form U-4 that contained false responses to disciplinary questions, when in fact, she was the subject of a welfare fraud conviction and a state action. Furthermore, the NASD found that Coats failed to amend the Form U-4 to disclose the conviction and state action. **(NASD Case #C02990008)**

Adebayo Bankole Cole (CRD #2430939, Registered Representative, Staten Island, New York) was censured, fined \$75,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cole submitted Form U-4 applications that failed to disclose information or provided inaccurate and misleading information concerning, among other things, his criminal record. Cole also failed to respond to NASD requests to provide testimony. **(NASD Case #C10980013)**

Philip Edward Colgan (CRD #2286018, Registered Representative, Redmond, Washington) 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 deny-

ing the allegations, Colgan consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide prior written notice to his member firm describing in detail the proposed transactions, his proposed role therein, and stating whether he had received, or would receive, selling compensation in connection with the transactions. **(NASD Case #C3B990011)**

Ronald Ernest Collins (CRD #2071112, Registered Representative, Redlands, California) 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, Collins consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests to provide documents and testimony. **(NASD Case #C02990025)**

Joseph Gaspare Coluccio (CRD #2439259, Registered Representative, West Hampton Beach, 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 nine months, and required to demonstrate that he has made restitution to a public customer in the amount of \$180,650. Without admitting or denying the allegations, Coluccio consented to the described sanctions and to the entry of findings that he solicited public customers to purchase securities by means of misrepresentations of material fact and omissions to disclose material fact. The findings also stated that Coluccio solicited a customer to purchase a security by predicting the future price of the security to the customer without a reasonable basis, and with

knowledge that the security was speculative. Furthermore, the NASD determined that Coluccio solicited a customer to purchase securities by guaranteeing the customer against loss in the investment and failed to take the promised actions to prevent loss. **(NASD Case #C3A990023)**

Thomas John Connell (CRD #52082, Registered Representative, Melville, New York) 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 five business days. Without admitting or denying the allegations, Connell consented to the described sanctions and to the entry of findings that, in response to a telephone call he received from an individual from the NASD asking why his member firm was not answering its telephones, Connell responded to the question by stating the firm was experiencing telephone problems. The NASD found that the firm was not experiencing telephone problems, but rather, Connell had been directed not to answer the telephones in the trading room. **(NASD Case #C10990043)**

Nicholas Joseph Cosmo (CRD #2452953, Registered Principal, Wantagh, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$68,209, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cosmo consented to the described sanctions and to the entry of findings that he replaced a public customer's name on an account transfer form with the name of an account at a member firm over which he had sole control, and attached to the transfer form a letter authorizing the transfer of the customer's account to the firm account he controlled, without the

customer's knowledge or consent. The findings also stated that Cosmo provided the customer with an account statement and trade confirmation, purportedly reflecting the customer's account at the firm when, in fact, no such account existed. **(NASD Case #C10990053)**

John Michael Doughty (CRD #2649919, Registered Representative, Farmington, Maine) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$157,500, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Doughty consented to the described sanctions and to the entry of findings that he obtained blank checks from a public customer's securities account that he forged and negotiated, without the customer's knowledge or consent. The NASD found that Doughty converted the proceeds totaling approximately \$29,500 to his own use and benefit. **(NASD Case #C11990012)**

James Alvis Elkins, Jr. (CRD #1970235, Registered Principal, Marietta, Georgia) 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, Elkins consented to the described sanctions and to the entry of findings that he participated in private securities transactions totaling \$1,013,787 in promissory notes and failed to provide his member firm written notice describing in detail the proposed transactions, his proposed role therein, and stating whether he would receive selling compensation in connection with the transactions. **(NASD Case #C3B990013)**

Jon Douglas Erickson (CRD #403437, Registered Principal,

Nashville, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$1,000,000, barred from association with any NASD member in any capacity, and ordered to pay \$943,000 in restitution to appropriate parties. Without admitting or denying the allegations, Erickson consented to the described sanctions and to the entry of findings that he engaged in outside business activities in that he acted as a trustee for trusts established for public customers without providing prompt written notice to his member firm. The findings also stated that Erickson converted approximately \$943,000 in trust property to his own use and benefit, without the knowledge or consent of the donors. **(NASD Case #C11990018)**

Charles Allen Eskew, Jr. (CRD #2027735, Registered Representative, Bastrop, 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, Eskew consented to the described sanctions and to the entry of findings that he received a check in the amount of \$102,779.61 from a public customer; deposited \$74,779.61 into a bank account he controlled, without the customer's knowledge or consent; and failed to return the funds to the affected customer until a later date. **(NASD Case #C06990001)**

Donald Howard Estey, Jr. (CRD #2020550, Registered Representative, Bozeman, Montana) 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, Estey consented to the described sanctions and to the entry of findings that he participated

in private securities transactions totaling \$1,567,883.39 in promissory notes without providing his member firm written notice describing in detail the proposed transactions, his proposed role therein, and stating whether he would receive selling compensation in connection with the transactions. **(NASD Case #C3B990012)**

Albert Joseph Ford (CRD #1835821, Registered Representative, Oakton, Virginia) and Douglas Francis Andrews (CRD #1793108, Registered Representative, Ashburn, Virginia) submitted an Offer of Settlement pursuant to which Ford was censured, fined \$95,000, and barred from association with any NASD member in any capacity, and Andrews was censured, fined \$75,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Ford and Andrews assisted in the "boiler room" operations of their member firm, and recruited and trained inexperienced registered representatives to telemarket aggressively low-priced, speculative securities recommended by their member firm to the public. According to the findings, Ford and Andrews directed, fostered, or induced the registered representatives to engage in the following abusive sales practices: making baseless price predictions about the stock recommended by their member firm, making material misrepresentations and omitting material negative information during sales presentations to customers, discouraging or prohibiting registered representatives from independently researching the firm's stocks, and discouraging or prohibiting registered representatives from processing unsolicited customer sell orders. Furthermore, the NASD found that Ford and Andrews engaged in these abu-

sive sales practices in their individual capacities during presentations to their customers. Ford, acting through other registered representatives, directed, encouraged, caused, and/or facilitated the purchase of stock by other registered representatives for their customers' accounts without the customers' prior authorization or consent, and Ford purchased stocks for his own customers' accounts, without the customers' prior authorization or consent. Ford and Andrews also failed to establish, implement, and enforce reasonable procedures to deter or prevent the above violations. **(NASD Case #C9B960013)**

Merlin Richard Gackle (CRD #1024847, Registered Principal, Odessa, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$20,000, and suspended from association with any NASD member in any capacity for 15 business days in a supervisory capacity. Without admitting or denying the allegations, Gackle consented to the described sanctions and to the entry of findings that, as the president of a member firm, Gackle failed to address, or failed adequately to address, the firm's written supervisory procedures regarding, among other things, insider trading, receipt of customer funds and securities, mutual fund breakpoints, variable annuities and variable life insurance, options, municipal securities, customer complaint reporting, cold calling, sales supervision, and discretionary accounts. Furthermore, the findings stated that Gackle, as president of the firm, failed to inspect each branch office according to the cycle set in its written supervisory procedures, and failed to supervise and/or enforce the firm's written supervisory procedures adequately as they relate to the review of daily transactions, mutual fund switches, branch office inspections and examinations, and

advertising and correspondence. Moreover, the NASD found that the firm failed to have each registered representative participate in an annual compliance meeting, failed to conduct a periodic examination of all customer accounts to detect and prevent irregularities or abuses, failed to report customer complaints, and allowed an individual to serve as the firm's acting chief administrative officer when the individual was never registered properly with the NASD in any capacity. **(NASD Case #C07990027)**

Paul Joseph Garceau, Jr. (CRD #1716125, Registered Representative, Clinton Township, Michigan) 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 five days. Without admitting or denying the allegations, Garceau consented to the described sanctions and to the entry of findings that he engaged in outside business activities by receiving approximately \$19,000 in compensation for selling fixed annuities through a non-member insurance brokerage company, and in connection therewith, failed to give prompt written notice of his engagement in such activities to his member firm. **(NASD Case #C8A990035)**

Theodore Scott Geller (CRD #3035282, Registered Representative, Rome, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Geller consented to the described sanctions and to the entry of findings that he took the Series 7 exam, obtained a failing score, and altered his copy of the test report to reflect a passing grade. The findings also

stated that Geller then sent copies of the falsified test report to the NASD and his member firm using envelopes with the testing center indicated as the return address in an attempt to convince them that he had qualified as a general securities representative. **(NASD Case #C11990010)**

Frank Albert Ghergurovich (CRD #1398577, Registered Representative, Scituate, Massachusetts) 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, Ghergurovich consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. The findings also stated that, in connection with the above private securities transactions, Ghergurovich recommended to customers the purchase of securities without having reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs. **(NASD Case #C11990013)**

Mark Edwin Gort (CRD #1398585, Registered Principal, Wyoming, Michigan) submitted an Offer of Settlement pursuant to which he was censured, fined \$35,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gort consented to the described sanctions and to the entry of findings that he executed securities transactions for the account of a public customer, without the knowledge or consent of the customer, and in the absence of written or oral authorization to exercise discretion in said

account. Gort also failed to respond to NASD requests for documents and information. **(NASD Case #C8A990024)**

Jeffrey Harold Hamsher (CRD #1187004, Registered Representative, Wyomissing, Pennsylvania) submitted an Offer of Settlement pursuant to which he was censured, fined \$125,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hamsher consented to the described sanctions and to the entry of findings that he made material misrepresentations and omitted to disclose material facts in connection with his solicitation of public customers' funds in that he misrepresented to the investors that their funds would be invested in U.S. Treasury bonds when, in fact, the funds were used to trade U.S. Treasury bond/Treasury note options and futures; misrepresented that monies would be deposited with an NASD securities firm; misrepresented that the investments were "risk-free" and that the investors would receive an annual return of 44 percent although there was no reasonable basis for such a representation. The findings also state that Hamsher failed to timely disclose the terms of the "Profit Participation Agreement" or that he had entered into a separate agreement with an unregulated third party which assumed discretionary authority over the customer funds. Furthermore, the NASD determined that Hamsher transferred approximately \$80,000 of the investors' funds to the third party without their consent or authority. Hamsher engaged in private securities transactions without prior written notice to, and approval from, his member firm in that he offered and sold securities which he represented to be U.S. Treasury bonds to the investors, and failed to respond to NASD requests to provide complete bank records. **(NASD Case #C9A980037)**

Patrice Roberto Harris (CRD #2062802, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, barred from association with any NASD member in any capacity, and required to pay \$16,036.21 in restitution to public customers. Without admitting or denying the allegations, Harris consented to the described sanctions and to the entry of findings that he executed transactions in the accounts of public customers without their knowledge or consent and in the absence of written or oral authorization to Harris to exercise discretion in these accounts. **(NASD Case #C10980104)**

Michael Wayne Hawkins (CRD #2297934, Registered Representative, Atlanta, Georgia) was censured, fined \$65,000, and suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that Hawkins guaranteed a customer against loss in connection with securities transactions. Hawkins also participated in private securities transactions and failed to provide his member firm with written notice of these transactions or to obtain approval or acknowledgment from the firm. **(NASD Case #C07980047)**

Keith Allen Heichel (CRD #2058597, Registered Representative, Berea, Ohio) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$33,142.25, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Heichel consented to the described sanctions and to the entry of findings that he received a \$1,000 check for financial planning services. The NASD found that Heichel deposited the check in his

personal bank account and did not make restitution to his member firm until a later date. Heichel also participated in outside business activities and failed to give prompt written notice to his member firm of such activities. **(NASD Case #C8B990013)**

James Salvatore Heitzer (CRD #1187636, Registered Principal, Atlanta, Georgia) and **Christine Ann Heitzer (CRD #1099089, Registered Principal, Atlanta, Georgia)** were each censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that James and Christine Heitzer failed to respond to NASD requests for information concerning the investigation of various customer complaints and the Form U-5 filed on behalf of the Heitzers by a member firm. **(NASD Case #C07980015)**

John Vernon Hiers (CRD #1998818, Registered Representative, Canyon Lake, California) was censured, fined \$137,500, barred from association with any NASD member in any capacity, and ordered to pay \$6,106.77, plus interest, in restitution to a public customer. The sanctions were based on findings that Hiers received a \$7,500 check from a public customer intended for investment purposes, and without the customer's knowledge or consent, deposited the check in his personal brokerage account, used the funds to cover a day trade previously made in his account, and dissipated all but \$1,393.23 of the funds through trading in his personal account. Furthermore, Hiers falsely represented to the customer on numerous occasions that the account statements reflecting the trade that the customer had authorized in his account would be forthcoming. Contrary to these representations, however, no such statements were ever provided to the

customer because no account was ever established in the customer's name. Hiers later paid the customer \$1,393.23 but failed to return any portion of the remaining \$6,106.77. **(NASD Case #C02980029)**

Meredith Ivan Horowitz (CRD #250404, Registered Principal, Brooklyn, New York) was censured, fined \$1,000, and barred from association with any NASD member as a financial and operations principal. The sanctions were based on findings that a former member firm, acting through Horowitz, conducted a securities business while failing to maintain its minimum required net capital and effected a withdrawal of equity capital while its net capital was under the minimum requirement. **(NASD Case #C10960032)**

William Terrill Hundley (CRD #2291524, Registered Representative, Moore, Oklahoma) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Hundley consented to the described sanctions and to the entry of findings that he shared in the losses in the account of public customers by reimbursing the customers with a cashier's check in the amount of \$4,112.70 and issuing a promissory note for \$6,000 as repayment for losses incurred in the customers' account. The findings also stated that Hundley failed to timely and completely respond to NASD requests for information. **(NASD Case #C05990002)**

Mark Jude Iacono (CRD #1154923, Registered Principal, Smithtown, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$20,000, and suspended from association with any NASD member in any capacity for 30

days. Without admitting or denying the allegations, Iacono consented to the described sanctions and to the entry of findings that he repeatedly failed to make the required "affirmative determination" that certain securities he sold short would be delivered or were available and could be borrowed. The findings also stated that Iacono failed to comply with the rule requiring that all order tickets be marked either as a "long" or "short" transaction. **(NASD Case #CAF980002)**

Timothy Jones (CRD #1901591, Registered Representative, Tallahassee, Florida) was censured, fined \$65,000, suspended from association with any NASD member in any capacity for two years, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Jones participated in outside business activities without providing prompt written notice to his member firm of such activities. Jones also failed to respond to NASD requests for information. **(NASD Case #C07980020)**

Jonathan Ki Jung (CRD #2763865, Registered Representative, Boston, Massachusetts) 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 one year, and required to requalify by exam as a general securities representative by taking the Series 7 exam prior to acting again in any registered capacity with the NASD. Without admitting or denying the allegations, Jung consented to the described sanctions and to the entry of findings that he falsified documents and sent these documents to customers to create the erroneous impression that the execution price on options purchase transactions was lower than the actual price that had been previously

reported to the customers. **(NASD Case #C11990011)**

Christopher S. Knight (CRD #1710581, Registered Principal, Forest Hills, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Knight consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for documents and/or information. **(NASD Case #C10990051)**

Harriet Jacqueline Kozyn (CRD #2724496, Registered Representative, Ann Arbor, Michigan) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Kozyn failed to respond to NASD requests for information. **(NASD Case #C8A980067)**

Brian Joseph Lichtlin (CRD #2647463, Registered Representative, Secaucus, New Jersey) was censured, fined \$65,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Lichtlin effected unauthorized trades in the accounts of public customers and forged the signatures of public customers on documents stating that certain of the unauthorized purchases were unsolicited. Lichtlin also failed to respond to NASD requests for information. **(NASD Case #C10980112)**

Mario J. Liriano (CRD #2538442, Registered Principal, Bronx, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$40,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations,

Liriano consented to the described sanctions and to the entry of findings in that he received a check from public customers in the amount of \$5,000 to invest in several mutual funds, failed to submit the check to his member firm, presented the check to a third party for payment, and converted the funds to his personal use. Liriano attempted to conceal his conversion by sending his member firm the customers' application and his own personal check that was dated the same day he received the funds from the customers in an attempt to mislead his employer into believing that the customers' funds were submitted contemporaneously with the investment application and not improperly used by Liriano. The findings also stated that Liriano presented his member firm with a personal check that was rejected for insufficient funds. **(NASD Case #C10990027)**

Robert Charles Madrid (CRD #2474262, Registered Representative, Blue Island, Illinois) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Madrid engaged in unauthorized trading and failed to respond to NASD requests for information. **(NASD Case #C8A980069)**

Kevin Michael Mahon (CRD #1933710, Registered Representative, Manalapan, 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 Mahon failed to respond to NASD requests for information concerning customer complaints, private securities transactions, and dual registration with member firms. **(NASD Case #C10980079)**

Wayne Charles Maier (CRD #317449, Registered Representa-

tive, Bay City, Michigan) 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 five days. Without admitting or denying the allegations, Maier consented to the described sanctions and to the entry of findings that he participated in a private securities transaction in the form of a promissory note in the amount of \$50,000, and failed and neglected to provide written notice to, or to receive written authorization from, his member firm of his participation. **(NASD Case #CA8990037)**

Joseph Edward Mattera (CRD #2560300, Registered Representative, Medford, New York) 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 \$58,200 in restitution to public customers. Without admitting or denying the allegations, Mattera consented to the described sanctions and to the entry of findings that he solicited public customers to purchase securities and omitted to disclose material information concerning the nature of the transaction recommended and the issuer of the securities. The findings also stated that Mattera predicted the future price of a security to members of the public, and effected a purchase of a security in the accounts of public customers without their prior authorization. Furthermore, the NASD found that Mattera represented to a customer that the customer's failure to pay for an unauthorized transaction would have a negative effect on the customer's credit rating. **(NASD Case #C3A980065)**

Christopher Thomas McNamara (CRD #2451397, Registered Representative, Dix Hills, New York) was censured, fined \$100,000, barred

from association with any NASD member in any capacity, and ordered to pay \$140,101.72, plus interest, in restitution to public customers. The sanctions were based on findings that McNamara induced public customers to purchase securities by making numerous material misrepresentations, false and misleading statements, and omissions of fact about the companies and the securities. The findings also stated that McNamara misrepresented the amount of the commissions he would earn on these transactions. In addition, McNamara effected unauthorized transactions in customer accounts and made fraudulent price predictions. McNamara also failed to follow, or follow promptly, a public customer's instructions to sell securities. **(NASD Case #C3A980045)**

Andrew Means (CRD #2729697, Associated Person, Brooklyn, New York) was censured, fined \$65,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Means failed to respond to NASD requests for information. Means also filed an inaccurate Form U-4 and failed to disclose that he had been convicted or plead guilty to felony charges on several occasions. **(NASD Case #C10980060)**

George Jerry Merges (CRD #1610239, 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 a supervisory capacity for 10 business days. Without admitting or denying the allegations, Merges consented to the described sanctions and to the entry of findings that he failed to supervise adequately an individual so as to be able to detect unsuitable recommendations made to a public customer. **(NASD Case #C07980045)**

Jeffrey David Miller (CRD #733159, Registered Representative, Moody, Alabama) was censured, fined \$50,000, suspended from association with any NASD member in any capacity for one year, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Miller received a check in the amount of \$2,558 from a public customer for the purchase of insurance policies, failed and neglected to execute the purchases of these insurance policies, and instead, made improper use of the customer's funds. Miller also failed to amend his Form U-4 to disclose a civil judgment and the filing of a federal tax lien against him. Furthermore, Miller failed to respond to NASD requests for information. **(NASD Case #C05980039)**

James Scott Morrill (CRD #2489543, Registered Representative, Staten Island, New York) 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, Morrill consented to the described sanctions and to the entry of findings that, in connection with an initial public offering (IPO), Morrill solicited public customers to purchase units of the offering by telling the customers that they could only purchase units in the IPO if they agreed to commit to aftermarket purchases. The findings also stated that Morrill effected an unauthorized purchase of shares of the IPO for a public customer when the customer agreed only to purchase aftermarket units, effected an unauthorized cancellation of the customer's authorized IPO purchase because the customer refused to pay for the unauthorized shares, and canceled a public customer's purchase of units because the customer was unable to timely remit funds to

purchase aftermarket units. In advising customers that their rights to purchase units in the IPO were contingent upon their committing to purchase aftermarket shares, the NASD found that Morrill misrepresented to the customers certain material facts relating to the terms and conditions of the IPO and misrepresented the customers' actual rights under the federal securities laws, and failed to advise them of certain material facts, such as the extensive risks associated with the proposed investment, including but not limited to the history of operating losses. Furthermore, the NASD determined that Morrill attempted to induce, and did in fact induce, persons to purchase units, shares, and warrants prior to the completion of the IPO. **(NASD Case #C10970143)**

William Nunziato (CRD #727864, Registered Principal, Whitestone, New York) 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, Nunziato consented to the described sanctions and to the entry of findings that, acting with others, Nunziato arranged to purchase approximately 1.3 million shares of common stock from former affiliates of an offering and, acting alone and with others, engaged in a secondary distribution using special selling efforts and selling methods at a time when his firm acted as a Market Maker; bid for and purchased securities which were the subject of the distribution; and induced other persons to purchase such securities before the distribution was completed. Moreover, the findings stated that Nunziato failed to inform his firm's customers that the IPO was not a bona fide public distribution nor were they informed of the secondary distribution that diluted the shareholders' interests in the aftermarket. The findings also stated that

a member firm, acting through Nunziato, failed to supervise adequately and properly an individual with respect to “flipping” IPO shares to ensure compliance with applicable rules and regulations, and failed to take any steps to discharge his supervisory responsibilities with the firm. Nunziato also failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #CAF980098)**

David Charles Olson (CRD #1007413, Registered Principal, Aurora, Colorado) 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 30 days. Without admitting or denying the allegations, Olson consented to the described sanctions and to the entry of findings that he made a material misrepresentation to a public customer regarding the customer’s investment. The NASD found that, based on Olson’s false representation, the customer continued to hold his position of the stock and purchased additional shares through another broker/dealer. **(NASD Case #C3A990026)**

Huang Huei Ong (CRD #2670892, Registered Representative, Singapore) was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 10 days. The sanctions were based on findings that Ong provided false information on a Form U-4. **(NASD Case #C10980006)**

Michael Anthony Petrucci (CRD #2152102, Registered Representative, New Haven, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$32,500, and barred from association with any NASD member in any capacity. Without admitting or deny-

ing the allegations, Petrucci consented to the described sanctions and to the entry of findings that he engaged in outside business activities and engaged in a private securities transaction without prior written notice to, or approval from, his member firm. The findings also stated that Petrucci made untrue statements of material facts, and omitted to state material facts necessary to make the statements not misleading, in connection with his offer and sale of a promissory note to a public customer. Furthermore, the NASD found that Petrucci guaranteed the customer that he would not lose any money as an inducement for the customer to invest in the promissory note. **(NASD Case #C11990016)**

Robert Louis Plomgren (CRD #1240476, Registered Principal, Solana Beach, California) 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 six months. Without admitting or denying the allegations, Plomgren consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm describing the proposed transactions and his proposed role therein. **(NASD Case #C02990031)**

Thomas James Quesnel (CRD #1556028, Registered Representative, South Hadley, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and ordered to pay \$7,558.52, plus interest, in restitution to a member firm. Without admitting or denying the allegations, Quesnel consented to the described sanctions and to the entry of findings that he

misappropriated \$7,558.52 in cash surrender proceeds from the life insurance policies of his customers. According to the findings, the customers had endorsed cash surrender checks and requested that Quesnel use the funds to pay the premium on their new insurance policies. The NASD found that, instead, Quesnel double-endorsed the checks and improperly converted the funds for his own use and benefit. **(NASD Case #C11990015)**

Christopher Johnalbert Richardson (CRD #2041338, Registered Representative, New York, New York) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for 18 months. Without admitting or denying the allegations, Richardson consented to the described sanctions and to the entry of findings that he submitted materially inaccurate Forms U-4, and failed to amend his Form U-4 to disclose state actions taken against him. The findings also stated that Richardson failed to respond timely to NASD requests for information. **(NASD Case #C10980137)**

Matthew Joseph Samul (CRD #2708526, Registered Representative, Henderson, Nevada) was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for five business days. The sanctions were based on findings that Samul used indecorous language during a conversation with a potential customer. **(NASD Case #C10980111)**

Richard San Miguel, Jr. (CRD #1884910, Registered Representative, Oceanside, California) 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 30

business days. Without admitting or denying the allegations, San Miguel consented to the described sanctions and to the entry of findings that he submitted Forms U-4 to his member firms and failed to notify his firms that he was convicted of petty theft and was disciplined by the state of California for failing to disclose the conviction on a registration application. **(NASD Case #C02990019)**

Thomas Robert Sanford (CRD #2384344, Registered Principal, Dana Point, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$30,000, barred from association with any NASD member in any capacity with the right to reapply after five years, required to show proof of restitution to public customers, and required to reimburse his member firm \$21,800. Without admitting or denying the allegations, Sanford consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without the customers' knowledge, authorization, or consent and initiated unauthorized wire transfers totaling \$21,800 from the joint account of public customers. The findings also stated that, in order to facilitate this unauthorized wire transfer, Sanford forged the customers' signatures on wire transfer instruction forms, and as a result, \$21,800 belonging to the customers was transferred from their joint account to bank accounts of which the customers had no beneficial nor other interest. **(NASD Case #C02980090)**

Mark Anthony Savage (CRD #1907412, Registered Representative, Morristown, 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 Savage failed to respond to NASD requests for information. **(NASD Case #C10980101)**

Andrew Daniel Schiff (CRD #2273198, Registered Representative, West Long Branch, New Jersey) was censured, fined \$14,000, and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a New York DBCC decision. The sanctions were based on findings that Schiff executed transactions in the accounts of public customers without the customers' knowledge, authorization, or consent. **(NASD Case #C10970156)**

Rex Dale Schilling (CRD #2120285, Registered Principal, Portland, Oregon) 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, Schilling consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for documents and information. **(NASD Case #C3B990010)**

David Jordan Smith (CRD #2139062, Registered Representative, Kailua, Hawaii) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Smith failed to respond to NASD requests for information. **(NASD Case #C3B980024)**

Frank John Spinelli, Jr. (CRD #2712773, Registered Representative, New York, New York) 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 60 days, and required to requalify by exam in all capacities. Without admitting or denying the allegations, Spinelli consented to the described sanctions and to the entry of findings that he solicited public customers, took customer orders to open new

accounts, and executed securities transactions while he was unregistered. According to the findings, Spinelli forwarded the customer information to a co-worker who opened the accounts and executed the securities transactions under his name and internal account executive number. Spinelli failed to inform the customer or his member firm of this matter. The NASD found that upon completion of his registration with the NASD, these accounts were transferred back to Spinelli's name and internal account executive number. Furthermore, the NASD determined that Spinelli solicited customers securities without first knowing the customers and the customers' suitability for the securities. **(NASD Case #C10990048)**

Richard Kent Steele, Jr. (CRD #2195547, Registered Representative, Los Angeles, California) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Steele failed to respond to NASD requests for information and an on-the-record interview. **(NASD Case #C10980083)**

Gerald James Stoiber (CRD #871482, Registered Representative, Mokena, Illinois) was fined \$450,000, suspended from association with any NASD member in any capacity for six months, and required to pay \$450,000 in restitution to public customers. However, the fine may be reduced by any amounts Stoiber pays in restitution to public customers. The United States Court of Appeals for the District of Columbia dismissed Stoiber's appeal of an SEC decision rendered September 1997 sustaining NASD disciplinary action, and the Supreme Court of the United States denied a writ of certiorari in April 1999. The sanctions were based on findings that Stoiber engaged in private securities transactions while failing to give prior writ-

ten notice to, and obtain prior written approval from, his member firm to engage in such activities.

Stoiber's suspension began on May 31, 1999, and will conclude at the close of business on November 29, 1999. **(NASD Case #C8A940013)**

Jennifer Marie Tew (CRD #2704798, Registered Representative, North Glenn, Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$11,250, suspended from association with any NASD member in any capacity for one year, and required to repay \$250 to a bank. Without admitting or denying the allegations, Tew consented to the described sanctions and to the entry of findings that she used the computer accounting function of a bank associated with her member firm to cause her checking account at the bank to be credited in the aggregate amount of \$250. The NASD found that this amount was credited to offset charges that had been debited to the account. **(NASD Case #C3A990003)**

Vincent Gerard Vaccaro (CRD #2200443, Registered Principal, Lydenhurst, New York). Vaccaro was censured, fined \$100,000, barred from association with any NASD member in any capacity, and required to disgorge commissions totaling \$135,982.50 to his customers. The sanctions were based on findings that Vaccaro participated in a "boiler room" at his member firm and made material misrepresentations and omissions to public customers while recommending that they purchase interests in an IPO and aftermarket stock underwritten by his member firm. In addition, Vaccaro made an unauthorized purchase for a public customer and failed to execute sell orders he received from customers. **(NASD Case #CMS960174)**

Alejandro Vargas (CRD #2843561, Associated Person, Inglewood, California) 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 30 business days. Without admitting or denying the allegations, Vargas consented to the described sanctions and to the entry of findings that he submitted a Form U-4 to his member firm that failed to disclose a petty theft conviction. **(NASD Case #C02990020)**

Greg Todd Vittor (CRD #1864219, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was censured, fined \$20,000, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Vittor consented to the described sanctions and to the entry of findings that he repeatedly failed to make the required "affirmative determination" that certain securities he sold short would be delivered or were available and could be borrowed. **(NASD Case #CAF980002)**

Daniel Phillip Whaley (CRD #1161113, Registered Principal, Bay City, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,500, suspended from association with any NASD member in any capacity for five business days, and required to requalify by exam as a general securities principal. Without admitting or denying the allegations, Whaley consented to the described sanctions and to the entry of findings that a member firm, acting through Whaley, failed to ensure that an individual was qualified and/or registered in the appropriate capacity with the firm prior to permitting the individual to engage in securities transactions. **(NASD Case #C8A980008)**

Individuals Fined

Brad Ralph Miles (CRD #2468765, Registered Representative, Hooper, Utah) submitted an Offer of Settlement pursuant to which he was censured and fined \$10,000. Without admitting or denying the allegations, Miles consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give his member firm prior written notification of his participation in the transactions. **(NASD Case #C3A990009)**

Greg Steven Sklar (CRD #1694379, Registered Representative, Los Angeles, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$30,000, and ordered to requalify by exam as a general securities representative. Without admitting or denying the allegations, Sklar consented to the described sanctions and to the entry of findings that he knew, or should have known, that the recommendations in the account of a public customer were unsuitable for the customer and that the account was excessively traded. Sklar failed to take appropriate action to prevent the violative activity in the account and substantially benefited from the violative trading activity. **(NASD Case #C02980024)**

Randy James Wishinsky (CRD #1461972, Registered Principal, Clinton, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$20,000. Without admitting or denying the allegations, Wishinsky consented to the described sanctions and to the entry of findings that he improperly paid commissions to a registered representative of another firm for transactions with public customers he never met. According to the findings, Wishinsky had no involvement in these transactions except to the extent that each of the accounts was opened and the transactions accom-

plished with his registered representative number through his member firm. **(NASD Case #C11980012)**

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 May 14, 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*.

Sylvester Cannon, Jr. (CRD #2766126, Registered Representative, Detroit, Michigan) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cannon failed to respond to NASD requests for information regarding alleged forgeries.

Cannon has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C8A980054)**

Vincent Michael Carrella (CRD #2321148, Registered Principal, East Islip, New York) was censured, fined \$100,000, barred from association with any NASD member in any capacity, and required to disgorge commissions totaling \$161,623.75 to his customers. The sanctions were based on findings that Carrella made fraudulent misrepresentations to public customers while recommending that they purchase interests in an IPO and after-market stock underwritten by his member firm. Carrella failed to disclose to customers material information concerning the risks attendant to investing in the offering.

Carrella has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #CMS960174)**

Steven Fishman (CRD #2428781, Registered Principal, Brooklyn, New York) was censured and barred from association with any NASD member in any capacity. The sanctions were based on findings that a former member firm, acting through Fishman, operated a securities business without a financial and operations principal and conducted a securities business while failing to maintain its minimum required net capital. In addition, the firm, acting through Fishman, failed to establish, maintain, and enforce written supervisory procedures that addressed the receipt of customer checks made payable to the firm.

Fishman has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C10960032)**

Harry Gliksman (CRD #223138, Registered Principal, Beverly Hills, California) was censured, fined \$25,000, suspended from association with any NASD member in any capacity for six months, and required to requalify as a general securities representative. The NAC affirmed the sanctions following appeal of a Los Angeles DBCC decision. The sanctions were based on findings that Gliksman made unsuitable recommendations to a public customer.

Gliksman has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C02960039)**

Robin Bruce McNabb (CRD #1016598, Registered Principal, San Jose, California) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The NAC

imposed the sanctions following appeal of a San Francisco DBCC decision. The sanctions were based on findings that McNabb participated in private securities transactions without giving prior written notification to his member firm. In addition, McNabb recommended to public customers the purchase of securities without having reasonable grounds for believing that the investments were suitable for the customers in light of the facts disclosed by the customers as to their other security holdings and as to their financial situation and needs.

McNabb has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C01970021)**

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.

William Thomas Breese (CRD #2542710, Registered Representative, Midlothian, Illinois) was named as a respondent in an NASD complaint alleging that he received \$141,793.19 in checks and cash from public customers to purchase securities, failed to apply the funds, except for \$1,000, as they directed, and without their knowledge and authorization, used the funds for his own benefit or for some purpose other than for the benefit of the customers. The complaint alleges that

Breese obtained a total of \$151,376.88 from accounts belonging to a public customer, without the knowledge or authorization of the customer, and used the funds for the benefit of himself or individuals other than the customer. The complaint also alleges that Breese failed to respond to NASD requests for information. **(NASD Case #C8A990039)**

Robert Steven Calavetta (CRD #2399753, Registered Representative, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he purchased securities for the account of a public customer, without the knowledge or consent of the customer, and in the absence of written or oral authorization to exercise discretion in the account. The complaint also alleges that Calavetta failed to appear for an on-the-record interview requested by the NASD. **(NASD Case #10990054)**

Michael Daniel Cleary (CRD #2692653, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he effected a purchase in the account of a public customer without the knowledge or consent of the customer, and failed to execute other customers' sell orders. The complaint also alleges that Cleary made false or misleading statements to a public customer when he knew, or was reckless in not knowing, that they were false or misleading. The complaint alleges that Cleary allowed an unregistered person to use his account executive number to effect securities transactions when he knew or should have known that the individual was not registered with the NASD. Furthermore, the complaint alleges that Cleary knowingly entered false and misleading information on his Form U-4, and failed to respond in a timely manner to NASD requests for information or to appear for an on-the-

record interview. **(NASD Case #10990056)**

Oscar Conrad Dotson (CRD #2585430, Registered Representative, Providence, Rhode Island) was named as a respondent in an NASD complaint alleging that he received a check in the amount of \$556.70 from a public customer in order to pay the premium to reinstate her husband's insurance policy, failed to apply the \$556.70 to the insurance policy as intended by the customer, and instead, improperly converted the funds for his own use and benefit. The complaint also alleges that Dotson failed to respond to NASD requests for information. **(NASD Case #C11990020)**

John Edwin Evans (CRD #1649451, Registered Principal, Dunwoody, Georgia) was named as a respondent in an NASD complaint alleging that he made representations to public customers regarding the purchase of warrants that constituted a guarantee against loss and a manipulative, deceptive, and fraudulent inducement to effect the purchase of a security. The complaint also alleges that Evans failed to respond to NASD requests for information. **(NASD Case #C07990035)**

Christopher Gordon Fike (CRD #2493817, Registered Principal, Bayshore, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omitted to disclose material information to public customers in connection with his solicitations and recommendations of transactions. The complaint alleges that Fike made price projections of securities to public customers without having a reasonable basis for his predictions. The complaint also alleges that Fike made unsuitable recommendations to a public customer, in light of the customer's

financial circumstances and needs. **(NASD Case #C3A990021)**

Len Kenneth Furman (CRD #1964317, Registered Principal, Bradenton, Florida) was named as a respondent in an NASD complaint alleging that he made omissions of material fact in connection with the sale of promissory notes to public customers. The complaint also alleges that Furman solicited and sold promissory notes to public customers, outside of the scope of his regular employment with his member firm, without giving prior written notice to, or receiving approval from, his firm of his proposed participation in such transactions. The complaint also alleges that Furman signed false and misleading affidavits in connection with arbitration proceedings filed by public customers. **(NASD Case #C07990033)**

Hanna Grzedzicakawalek (CRD #2610590, Registered Representative, Glen Cove, New York) was named as a respondent in an NASD complaint alleging that she received a \$1,479 cash payment from a public customer to pay the annual premium for a life insurance policy, failed to transmit 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 complaint alleges 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. The complaint also alleges that Grzedzicakawalek received insurance checks totaling \$1,115.39 payable to public customers, representing premium refunds from canceled life insurance policies, and rather than transmitting these payments to the customers, endorsed the checks, deposited them in her personal bank account, and converted the resulting

funds to her own use and benefit without the customers' consent or authority. The complaint also alleges that Grzedzicakawalek failed to respond to NASD requests for information. **(NASD Case #C9B990002)**

James Mirven Hinderliter, III (CRD #2573867, Registered Representative, Shirley, New York) was named as a respondent in an NASD complaint alleging that he received \$182.63 in cash premium payments for life insurance policies, failed to forward these payments to his member firm, and instead, converted these funds to his own use and benefit without the customer's knowledge or consent. The complaint also alleges that Hinderliter failed to respond to NASD requests for information. **(NASD Case #C9B990003)**

Mark Allen McGee (CRD #2422551, Registered Representative, New-castle, 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 the customer. The complaint also alleges that McGee received a total of \$26,000 from public customers for investment in the "Equity Committee Portfolio," a fund they were told by McGee was managed by a group of financial advisors in his 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. Furthermore, the complaint alleges that McGee failed to respond to NASD requests for information. **(NASD Case #C3B990017)**

Patrick John McVicar (CRD #2182305, Registered Representative, Jersey City, New Jersey) was

named as a respondent in an NASD complaint alleging that he executed unauthorized purchase transactions in the account of a public customer without the customer's knowledge or consent. The complaint alleges that McVicar sent correspondence to a public customer without the prior approval or review by his supervisor. The complaint also alleges that McVicar failed to respond to NASD requests for information. **(NASD Case #C05990011)**

Keith Malvin Peters (CRD #2247575, Registered Principal, Copiague, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omitted to disclose material information to public customers in connection with his solicitations and recommendations of transactions. The complaint alleges that Peters predicted the future price of securities to public customers without having a reasonable basis. The complaint also alleges that Peters effected a transaction in the account of a public customer that exceeded the customer's authorization. The complaint also alleges that Peters failed to sell securities as instructed by a public customer. **(NASD Case #C3A990022)**

Fernando Patricio Rodriguez (CRD #1587712, Registered Principal, Cudahy, California) was named as a respondent in an NASD complaint alleging that he received cash payments totaling \$800 from a public customer for the purpose of paying the customer's individual retirement account fixed annuity premiums, and instead of making the payments for the customer, converted the \$800 to his own personal use. **(NASD Case #C02990032)**

Wei John Wang (CRD #2549111, Registered Representative, Nashville, Tennessee) was named as a respondent in an NASD com-

plaint alleging that he forged the signature of a public customer to a form titled "Authorization to Change Broker/Dealer," which effected a change of the broker/dealer of record for the customer's account from one member firm to another, without the customer's knowledge or consent. The complaint also alleges that Wang exercised discretion in the account of a public customer by effecting a transfer of funds held in the customer's variable annuity from an index equity fund to a high yield bond fund, without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm. The complaint also alleges that Wang provided the NASD with a copy of a letter purportedly written and signed by a public customer, which represented that the customer was satisfied with the manner in which his account had been handled by Wang when Wang knew, or should have known, that the letter was not written by the customer and the purported signature was a forgery. The complaint also alleges that Wang provided the NASD with a copy of a letter purportedly written and signed by another customer which represented that the customer was retracting a complaint previously made against Wang when Wang knew, or should have known, that the letter was not written by the customer and the purported signature was a forgery. **(NASD Case #C05990014)**

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

Conlon, John J. III, Wallingford, Connecticut (April 28, 1999)

Melville, Andrew B., Altamonte Springs, Florida (April 28, 1999)

Priolo, Antonio Eugene, Brooklyn, New York (April 28, 1999)

NASD's National Adjudicatory Council Fines A.S. Goldmen & Co. \$150,000; Orders Restitution To Customers; Sanctions And Fines Firm Execs

NASD Regulation's National Adjudicatory Council (NAC) ordered Iselin, N.J.-based A.S. Goldmen & Co., Inc., to pay a \$150,000 fine and more than \$500,000 in restitution and interest to customers involved in securities transactions relating to today's decision.

A.S. Goldmen President and owner Anthony J. Marchiano has been fined, together with the firm, \$150,000; required to requalify as a principal; and censured for failing to supervise. Vice President Stuart E. Winkler has been suspended for two years, fined \$36,000, and censured for engaging in manipulative conduct, charging excessive markups, and failing to supervise. Head Trader Stacy Meyers was censured, fined \$5,000, and required to requalify as a general securities representative.

Following an independent review of the entire record in this matter, the NAC affirmed in part and reversed in

part the findings of New York's DBCC. The NAC found that A.S. Goldmen and Winkler engaged in manipulative and fraudulent trading practices, and that Meyers was responsible for the firm's excessive markups. Finally, the NAC upheld the determination that A.S. Goldmen, Winkler, and Marchiano failed to adequately establish, maintain, and enforce a supervisory system at the firm. During the appeal the staff filed a motion to reverse and dismiss the DBCC's finding of excessive underwriting compensation because the staff determined that the calculation of the compensation was erroneous. Based upon the staff's motion, the NAC dismissed the finding and reduced the sanctions accordingly.

The NAC concluded that during a four-day period in July 1994, A.S. Goldmen, through Winkler and Meyers, charged retail customers fraudulently excessive markups in 500 sales of Innovative Tech Systems, Inc. (ITSY) warrants, that the firm dominated and controlled the ITSY warrant market, and that A.S. Goldmen manipulated the market by bidding for and purchasing ITSY warrants while engaged in a distribution of the warrants. The manipulation and the overcharging, resulted in more than \$500,000 in illicit profits.

NASD Regulation found that even though A.S. Goldmen was only one of 12 Market Makers in Innovative Tech, it accounted for approximately 97 percent of all the warrants traded during the four-day period. By dominating the market to this extent, A.S. Goldmen controlled the supply of Innovative Tech's warrants, through its own accounts and its customers' accounts, immediately following the company's IPO on July 26, 1994.

A.S. Goldmen artificially increased the warrant's price to almost \$2 per share, more than a 700 percent increase over the offering price. As a result, customers were charged markups of five to 140 percent. NASD Regulation considers markups greater than five percent to be excessive and greater than 10 percent to be fraudulent.

NASD Regulation found no evidence that Innovative Tech Systems, which was (and still is) listed on The Nasdaq SmallCap MarketSM at the time, knew that the price of its warrants was being manipulated.

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