

Disciplinary Actions

Disciplinary Actions Reported For April

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, April 19, 1999. The information relating to matters contained in this *Notice* is current as of the end of March 22, 1999.

Firms And Individuals Barred Or Suspended

L.H. Alton & Company (San Francisco, California) and **Lewis Hunt Alton (Registered Principal, San Francisco, California)** were censured and fined \$40,000, jointly and severally. In addition, the firm was suspended from participation in underwriting activities for 30 business days, and ordered to hire an independent consultant to audit the firm's compliance and written supervisory policies, procedures, and practices and to comply with the requirements in the consultant's written report. Alton was suspended from association with any NASD member in any principal capacity for 30 days, and ordered to comply with the consultant's recommendations before acting again in any principal capacity. Alton must also requalify by examination before acting in any principal capacity. The Securities and Exchange Commission (SEC) affirmed the sanctions following the appeal of a December 1997 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that the firm, acting through Alton, conducted a securities business while maintaining insufficient net capital, filed false and inaccurate FOCUS Parts I and II Reports, and permitted an unregistered person to act as a representative and principal of the firm.

Furthermore, the respondents participated in the underwriting of several "hot issues" without obtaining required information from the purchasers of the hot issues, and failed to complete a training needs analysis and to develop written training plans concerning the Firm Element of the Continuing Education Requirements. In addition, the firm, acting through Alton, failed to maintain written supervisory procedures relating to the customer complaint reporting requirement.

L.H. Alton & Company and Alton have appealed this action to the U.S. Court of Appeals and the sanctions are not in effect pending consideration of the appeal.

La Jolla Capital Corporation (San Diego, California), Harold Bailey Gallison (Registered Principal, Las Vegas, Nevada), Christopher S. Knight (Registered Principal, Forest Hills, New York), and Gregory Karl Mehlmann (Registered Principal, Englewood, Colorado).

The firm and Gallison were censured, barred from engaging in penny stock transactions in any capacity, fined \$297,380, jointly and severally, and fined \$50,000 each individually, and required to present proof of restitution or rescission to their damaged customers, jointly and severally. Gallison was also barred in all principal and supervisory capacities, and suspended in all capacities for 30 days. Knight was censured, fined \$95,854.55, barred in all principal and supervisory capacities, barred from engaging in penny stock transactions in any capacity, and suspended in all capacities for 15 days. Mehlmann was censured, fined \$10,000, suspended in all principal and supervisory capacities for 10 days, and required to requalify as a general securities principal.

The National Adjudicatory Council (NAC) imposed the sanctions following appeal of a Los Angeles District

Business Conduct Committee (DBCC) decision. The sanctions were based on findings that the firm, Gallison, and Knight violated the SEC's penny stock rules by failing to make adequate disclosure to their customers who purchased penny stocks. In addition, the firm, Gallison, Mehlmann, and Knight failed to establish, maintain, and enforce procedures reasonably designed to detect and prevent violations of the penny stock rules. Knight also permitted unregistered personnel to engage in the securities business at the firm's New York office while he managed that office.

La Jolla Capital Corporation and Gallison have appealed this action to the SEC and the sanctions, other than their bars, are not in effect pending consideration of the appeal.

Strategic Resources Management, Inc. (Aurora, Colorado) and **William Arthur Moler (Registered Principal, Aurora, Colorado)** submitted an Offer of Settlement pursuant to which they were censured and fined \$7,500, jointly and severally, and both the firm and Moler were suspended from membership in the NASD for six months. In addition, Moler must requalify as a Series 24 general securities principal prior to resuming duties that require registration as a principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm and Moler failed to file an amended Form U-5 for an individual to disclose the filing of an arbitration claim against the individual.

Firms Fined, Individuals Sanctioned

Royal Alliance Associates, Inc. (New York, New York) and **Kathryn Travis (Registered Principal, Lattingtown, New York)** submitted a

Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$25,000; Travis was censured, fined \$10,000, and barred from association with any NASD member in a supervisory capacity with a right to re-apply after one year. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm and Travis failed to supervise adequately the activities of a registered representative resulting in the individual engaging in unsuitable and excessive trading, including excessive mutual fund and annuity switching activity in the accounts of public customers.

Sturdivant & Co., Inc. (Clementon, New Jersey), Harvey Richard DeKrafft (Registered Principal, Mount Laurel, New Jersey), and Albert Anzael Sturdivant (Registered Principal, West Orange, New Jersey). The firm and Sturdivant were censured and fined \$7,500, jointly and severally, and the firm was fined \$3,500, individually. Sturdivant was suspended from acting in the capacity of general securities principal for 30 days, and DeKrafft was censured, fined \$10,000, and suspended from acting in his capacity as a principal for 60 days. Sturdivant's and DeKrafft's suspensions will be served consecutively. The sanctions were based on findings that DeKrafft operated as a principal at the firm without being properly registered. In addition, the firm conducted a general securities business while only having one registered general securities principal when a minimum of two was required. The firm and Sturdivant failed to conduct a training needs analysis and failed to provide the firm's registered persons with the required Firm Element training. In addition, the firm failed to file MSRB Form G-37 in a timely manner.

Sturdivant's suspension will commence April 19, 1999, and will conclude at the close of business on May 18, 1999. DeKrafft's suspension will commence May 19, 1999, and will conclude at the close of business on July 16, 1999.

Firms And Individuals Fined

Auerbach, Pollak & Richardson, Inc. (Stamford, Connecticut) and **Harry Nathaniel Bloch II (Registered Principal, Stamford, Connecticut)**

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$17,500, jointly and severally, and the firm was fined an additional \$1,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm split a customer's 4,000-share order for a single security into four separate 1,000-share orders for entry into the Small Order Execution SystemSM (SOESSM). In addition, the NASD found that the firm, acting through Bloch, failed to report to the NASD statistical and summary information regarding customer complaints, and the firm failed to report customer complaints. The findings also stated that the firm, acting through Bloch, failed to report, in a timely manner, the settlement of a customer's claim against one of its registered representatives, failed to develop a written training plan for continuing education, failed to maintain records documenting the implementation and completion of its continuing education plan, and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws, regulations, and NASD rules relating to continuing education and the reporting of customer complaints.

Pond Securities Corp. (Brooklyn, New York) and Ezra Yehuda Birnbaum (Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally, and the firm was fined an additional \$7,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm reported transactions in Nasdaq National Market® (NNM), Nasdaq SmallCapSM, OTC equity securities, listed securities executed over-the-counter, and in the Automated Confirmation Transaction ServiceSM (ACTSM), in violation of applicable securities laws and regulations regarding trade reporting. The finding also stated that the firm failed to prepare written supervisory procedures which adequately covered the firm's trade reporting requirements, in that they did not specify the procedures that a qualified principal of the firm would follow to ensure compliance with all relevant rules. Furthermore, the NASD determined that the firm effected transactions in municipal securities without paying an initial fee to the MSRB, effected transactions in municipal securities without qualifying an individual at the firm as a municipal securities principal, and failed to abide by the terms and conditions agreed to in the firm's restrictive agreement with the NASD. The firm also failed to complete a training needs analysis and to develop written training plans concerning the Firm Element of the Continuing Education Program.

Firms Fined

ABN-AMRO Incorporated (Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$13,500. Without admitting or denying the allegations,

the firm consented to the described sanctions and to the entry of findings that it failed to provide, in connection with transactions where the firm acted as principal, written notification to its customer of the reported trade price of the transaction. The findings also stated that the firm failed to report the correct price to ACT in transactions in NNM securities, and failed to report the correct price to ACT in one transaction in Nasdaq SmallCap securities. The NASD also determined that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to the designation of supervisory personnel, trade reporting, best execution, the Limit Order Protection Interpretation, the Order Handling Rules, the registration of persons with the NASD, the use of SOES, and anti-competitive practices.

Barron Chase Securities, Inc. (Boca Raton, Florida) submitted an Offer of Settlement pursuant to which the firm was censured and fined \$40,743.76. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to function as a general securities representative and execute transactions on behalf of public customers when the individual was not registered as a general securities representative.

Everen Securities, Inc. (Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$13,000, and required to pay restitution and interest 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 preserve for a period of not less than three years memoranda of brokerage

orders that showed the time of receipt of the order. The firm also failed to use reasonable diligence to ascertain the best inter-dealer market for the subject securities and failed to buy and sell in such market so that the resultant prices to the customers were as favorable as possible under the prevailing market conditions. The findings also stated that the firm failed to contemporaneously execute customer limit orders after it traded each subject security for its own market-making account at a price that would satisfy each customer limit order and failed to immediately display customer limit orders when the orders were at a price that would have improved the firm's bid or offer in each security related to those orders.

GVR Company, Inc. (Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to the customer was as favorable as possible under prevailing market conditions. In addition, NASD determined that the firm failed to immediately display customer limit orders when the orders were at a price that would have improved the firm's bid or offer in each security related to those orders, or when the full size of the orders was priced equal to the firm's bid or offer, and the national best bid or offer and the orders represented more than a *de minimis* charge in relation to the size associated with the firm's bid or offer in each security. The findings also stated that the firm failed to establish and maintain written supervisory procedures relating to the SEC Order Execution Rules, best execution, books and records,

the Limit Order Protection Interpretation, trade reporting rules, and locked and crossed markets.

Wien Securities Corporation (Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$23,500, and ordered to pay \$356.25 in restitution plus interest to the public customers whose orders did not receive best execution. 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. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws and regulations regarding trade reporting, ACT reporting, books and records, locked and crossed markets, SOES, the order handling rules, anti-competitive practices, and best execution.

Individuals Barred Or Suspended

Gary Leroy Armstrong (Registered Representative, Binghamton, New York) 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, Armstrong consented to the described sanctions and to the entry of findings that, without the knowledge or consent of his member firm or numerous public customers, Armstrong fraudulently effected mutual funds transactions at a time when any exchanges between two firms were to be done at net asset value with no sales charge and customers who made redemptions or received distributions were allowed to reinvest the funds at net asset to

another fund of the same class. Armstrong utilized new account applications that generated sales charges of at least \$103,661 of which he was paid commissions totaling approximately \$71,076, in lieu of submitting exchanges at net asset value with no sales charges.

James Edward Bickle (Registered Representative, Freeport, Illinois) 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, Bickle consented to the described sanctions and to the entry of findings that he participated, for compensation, in private securities transactions by participating in the sale of promissory notes to public customers, and failed to give written notice of his intention to, and receive written approval from, his member firm prior to engaging in such activities.

Ronald Tolbert Braswell (Registered Representative, Wintersprings, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$60,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Braswell consented to the described sanctions and to the entry of findings that he misused and mishandled a public customer's funds by holding \$10,000 of the customer's funds for over two months and failing to timely purchase mutual funds as requested by the customer.

Michael Howard Carstens (Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and barred from association with any NASD member in

any capacity. Without admitting or denying the allegations, Carstens consented to the described sanctions and to the entry of findings that he participated in private securities transactions by selling limited partnership interests without giving written notice to, and receiving written approval from, his member firms with which he was registered at the time.

Jeffrey Michael DeForest (Registered Representative, Medway, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, DeForest consented to the described sanctions, and to the entry of findings that he recommended and sold securities to a public customer without having reasonable grounds for determining this activity to be suitable for his customer.

Robert Alan Denton (Registered Principal, Parkland, Florida), Lee Michael Rough (Registered Principal, Aventura, Florida), and Marc David Siden (Registered Principal, New York, New York) submitted Offers of Settlement pursuant to which Denton was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 30 days. Rough was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 45 days; and Siden was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 15 days. Without admitting or denying the allegations, Denton, Rough, and Siden consented to the described sanctions and to the entry of findings that they solicited public customers to purchase warrants while knowingly or recklessly failing to disclose to the customers that they were selling warrants from

their personal accounts, or accounts which they controlled, at or about the same time as they were making recommendations to public customers.

Joseph Vincent Detrano (Registered Representative, Nesconset, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for two years, and required to requalify by exam as a Series 6 investment company and variable contract representative. Without admitting or denying the allegations, Detrano consented to the described sanctions and to the entry of findings that, during the sale of an insurance product to a policyholder, Detrano commingled the policyholder's check in the amount of \$14,000 with his own personal funds.

Daniel Joseph DiPoalo (Registered Representative, Matawan, New Jersey) was censured, fined \$75,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that DiPoalo received \$144,850.58 in funds from public customers for investment purposes, and contrary to the customers' instructions, deposited their checks in his own bank account or otherwise diverted their funds. DiPoalo also failed to respond to NASD requests for information.

Dale Andrew Diskant (Registered Representative, Huntington Beach, California) 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 10 business days. Without admitting or denying the allegations, Diskant consented to the described sanctions and to the entry of findings that he participated in outside business activities for which he

received compensation, and failed to provide his member firm with prompt written notification of these activities.

Jawahar Keshavlal Doshi (Registered Principal, Bayside, New York) was censured, fined \$22,500, 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 Doshi guaranteed a customer against loss and gave untruthful testimony during an on-the-record interview conducted by the NASD.

Paul Ian Dratel (Registered Representative, Flushing, New York) 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, Dratel consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in 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 customer's account.

Gale Lynne Fairbrother (Registered Representative, Novato, California) submitted an Offer of Settlement pursuant to which she was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fairbrother consented to the described sanctions and to the entry of findings that she participated in private securities transactions without providing prior written notification to her member firm. Fairbrother also provided false testimony to the NASD.

Mark Joseph Federowicz (Registered Representative,

Williamsville, New York) was censured, fined \$30,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Federowicz failed to respond to NASD requests for information.

Sandy Charles Giglio (Registered Representative, Palm Coast, Florida) was censured, fined \$20,000, suspended from association with any NASD member in any capacity for five days, and required to requalify by taking and passing the Series 7 exam. The sanctions were based on findings that Giglio forged the signatures of public customers on forms to move their accounts from his former member firm to his current member firm.

Kenneth Edward Grant (Registered Representative, Oxford, Michigan) submitted an Offer of Settlement pursuant to which he was censured, fined \$11,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Grant consented to the described sanctions and to the entry of findings that he received checks totaling \$2,622 made payable to insurance customers which included the repayments for insurance policies canceled by the customers, but also included a mistaken overpayment for insurance policies purchased for the customers. According to the findings, Grant endorsed the checks by writing the customers' names on the checks, without the customers' knowledge or consent, cashed the checks, and used \$2,185 for some purpose other than the benefit of his member firm or the customers, and later paid his firm \$2,165.

Maximo Justo Guevara (Registered Representative, Philadelphia, Pennsylvania) was censured, fined \$100,000, barred from association with any NASD member in any

capacity, and ordered to pay \$13,992, plus interest, in restitution to a public customer. The NAC imposed the sanctions following appeal of a Philadelphia DBCC decision. The sanctions were based on findings that Guevara made unsuitable recommendations in connection with sales of partnership interests to retail customers. Guevara also engaged in private securities transactions outside the regular course or scope of his employment without providing written notice to his member firm.

Guevara has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Matthew Edward Haggerty (Registered Principal, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$60,000, barred from association with any NASD member in any capacity, and required to pay \$4,000, plus interest, in restitution to entitled parties. Without admitting or denying the allegations, Haggerty consented to the described sanctions and to the entry of findings that he requested checks totaling \$10,000 from the securities accounts of public customers, and converted the funds to his own use and benefit by endorsing the checks and depositing them into his personal bank account, without the knowledge or consent of the customers. Furthermore, the NASD determined that Haggerty did not return any portion of the funds until he journaled \$6,000 of funds from his personal securities account to one of the customer's securities account.

Daniel Richard Hillard (Registered Representative, White River Junction, Vermont) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, and barred from asso-

ciation with any NASD member in any capacity. Without admitting or denying the allegations, Hillard consented to the described sanctions and to the entry of findings that he improperly converted at least \$65,000 belonging to a client for his own use and benefit.

Brett Elliot Hirsch (Registered Representative, New York, New York), Richard Paul Simone (Registered Representative, New York, New York), William Patrick Rosemond (Registered Representative, New York, New York), Jack Jay Wolynez (Registered Principal, Jericho, New York), John James McAndris (Registered Principal, Montvale, New Jersey), and Frank Michael Lucia, Jr. (Registered Representative, Robbinsville, New Jersey) submitted Offers of Settlement pursuant to which Hirsch was censured, fined \$110,000, and barred from association with any NASD member in any capacity. Simone was censured, fined \$104,000, and barred from association with any NASD member in any capacity, and Rosemond was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 10 business days. Wolynez was censured, fined \$100,000, and barred from association with any NASD member in any capacity, and McAndris was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Lucia 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, the respondents consented to the described sanctions and to the entry of findings that Hirsch, Simone, Rosemond, and Lucia engaged in unauthorized transactions in the accounts of public customers and in the absence of written or oral authorization to exercise discretion in the

accounts. Hirsch also purchased securities for the account of a limited partnership without the knowledge or consent of the partnership or its agent. The findings also stated that Hirsch purchased shares of securities from his firm but failed to pay for the securities, Simone failed to follow a customer's instructions to sell securities, and Wolynez and McAndris failed to establish, maintain, or enforce written supervisory procedures or to otherwise supervise Hirsch, Rosemond, Simone, and Lucia properly to prevent the occurrence of such violations.

The NASD also determined that Wolynez and McAndris participated in an initial public offering (IPO) of common stock and warrants to the public on a best efforts, minimum/maximum basis, and induced the purchase of stocks by means of manipulative, deceptive, and/or other fraudulent devices or contrivances. Moreover, the findings stated that Wolynez and McAndris continued to receive investor funds, and failed to return promptly to public customers \$9 million in excess of the stated maximum for the offering, and commenced trading securities in the secondary market, without the consent of the customers.

Richard Dean Holloway (Registered Representative, Tulsa, Oklahoma) was censured, fined \$85,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Holloway received insurance refund checks issued by his member firm totaling \$1,991.65 payable to public customers, failed to deliver the refund checks to the customers, and instead, converted the funds to his own use and benefit by forging endorsements on the checks without the public customers' knowledge or consent. In addition, Holloway failed to respond to NASD requests for information.

Frank John Ingersoll (Registered Principal, San Antonio, Texas)

submitted an Offer of Settlement pursuant to which he was censured, fined \$388,535, barred from association with any NASD member in any capacity, and ordered to pay \$301,088 in restitution to public customers. The NAC imposed the sanctions following a review of a Dallas DBCC decision. Without admitting or denying the allegations, Ingersoll consented to the described sanctions and to the entry of findings that he effected transactions in securities through an entity without providing prior written notice to his member firm, and acted as an unregistered broker/dealer by failing to register either himself or the entity as a securities broker/dealer with the SEC or the NASD. The findings also stated that Ingersoll caused misleading sales literature in the form of research reports to be distributed to the public, and failed to disclose a material adverse interest in connection with the sale of securities. Furthermore, the NASD determined that Ingersoll effected sales of shares of stock, and failed to disclose to customers and to his member firm the total remuneration he received in connection with those sales.

Lawrence Ralph Kassl (Registered Representative, Danville, Illinois)

submitted an Offer of Settlement pursuant to which he was censured, fined \$53,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kassl consented to the described sanctions and to the entry of findings that he received checks totaling \$10,500 with instructions to deposit the funds in a variable annuity and, contrary to the customer's instructions, and without the customer's knowledge or consent, Kassl deposited the checks in a bank account in which he either had an interest or controlled, and used the funds for some purpose

other than the benefit of the customer until he returned the funds to her with interest.

Michael Andrew Maher (Registered Representative, Portland, Oregon)

submitted an Offer of Settlement pursuant to which he was censured, fined \$60,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Maher consented to the described sanctions and to the entry of findings that he withdrew at least \$12,097.97 from a scholarship fund operated by employees of his member firm, without the knowledge or approval of the scholarship fund board of directors, and used the funds for his own personal use and benefit.

Jerri Marlene Masley (Registered Representative, Killeen, Texas)

submitted an Offer of Settlement pursuant to which she was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Masley consented to the described sanctions and to the entry of findings that she failed to respond to NASD requests for information and to provide documentation.

Gerald Cash McNeil (Registered Representative, North Bergen, New Jersey)

was censured, fined \$20,000, suspended from association with any NASD member in any capacity for two years, ordered to pay restitution in the amount of \$3,712.50 plus interest, and required to requalify by examination in all capacities prior to associating with a member firm. The NAC imposed the sanctions following appeal and review of a New York DBCC decision. The sanctions were based on findings that McNeil executed transactions in the accounts of public customers without their prior authorization or consent.

Warren Benjamin Minton, Jr. (Registered Representative, Helmetta, 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 Minton failed to respond to NASD requests for information.

Keith Laurence Mohn (Registered Representative, West Bloomfield, Michigan)

was censured, fined \$52,222, and barred from association with any NASD member in any capacity. The NAC affirmed the sanctions following appeal of a Chicago DBCC decision. The sanctions were based on findings that Mohn participated in private securities transactions without giving written notice of his intention to engage in such activities to his member firm and receiving prior written approval from his member firm.

Mohn has filed an appeal to the SEC, and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Siva Kumar Pemmaraju (Registered Representative, Minneapolis, Minnesota)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$55,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Pemmaraju consented to the described sanctions and to the entry of findings that he transferred funds from public customer accounts into accounts that he controlled, and converted \$9,015.92 to his own use and benefit, without the knowledge or consent of the customers.

Michael John Price (Registered Principal, Atlanta, Georgia)

submitted an Offer of Settlement pursuant to which he was censured, fined \$22,500, suspended from associa-

tion with any NASD member in any capacity for 30 days, and barred from association with any NASD member in any proprietary, principal and/or supervisory capacity. Without admitting or denying the allegations, Price consented to the described sanctions and to the entry of findings that he gave false or misleading statements to an NASD examiner as to the whereabouts of an individual, and failed to disclose that the individual had resigned. The findings also stated that Price failed to establish, implement, and enforce reasonable supervisory procedures designed to ensure compliance with NASD rules and federal securities laws.

David Irving Proctor, Jr. (Registered Principal, Indianapolis, Indiana) 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, Proctor consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to give written notice to, and receive written approval from, his member firm prior to engaging in such activities. The findings also stated that Proctor engaged in outside business activities and failed to give prompt written notice of his engagement in such activities to his member firm.

Michel Andre Rebonati (Registered Representative, Kilchberg, Switzerland) 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, Rebonati consented to the described sanctions and to the entry of findings that he falsified a client instruction letter that authorized the sale of bonds belonging to a public cus-

tomers and requested the proceeds totaling \$950,331.25 be wired to a nominee account. The findings also stated that Rebonati failed to respond to NASD requests for information.

John Joseph Rogers (Associated Person, Rochester, 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, Rogers consented to the described sanctions and to the entry of findings that, while taking the Series 7 exam, he brought unauthorized study materials into the testing area, despite being informed that unauthorized materials were prohibited, and referred to those materials during the exam.

Freddie Joe Royer, Jr. (Registered Principal, Dallas, 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 with a right to reapply after two years. Without admitting or denying the allegations, Royer consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and business activities outside the scope of his employment without giving his member firm prior written notice of his activities, and he failed to notify his member firm of securities accounts he maintained or established at other member firms for a non-member firm. The findings also stated that Royer failed to notify the firms holding the accounts of his association with his member firm. In addition, Royer opened a securities brokerage account with an NASD member, omitted to disclose that he was associated with a member firm, and purchased shares in an IPO that traded at an immediate premium in

the secondary market and was considered a "hot issue" for purposes of the NASD's Free-Riding and Withholding Interpretation. Furthermore, the NASD determined that Royer co-signed a membership agreement for another member firm, held a 40 percent ownership stake in the firm, and during the first and only examination of the firm, the NASD discovered that the firm had failed to comply with the membership agreement, with two of the noted violations attributable to Royer.

Daniel Charles Sanders (Registered Representative, Martinez, California) 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, Sanders consented to the described sanctions and to the entry of findings that he failed to appear for an NASD on-the-record interview.

Tobin Joseph Senefeld (Registered Principal, Crestwood, Kentucky) 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 principal capacity for 20 days. Without admitting or denying the allegations, Senefeld consented to the described sanctions and to the entry of findings that, as branch manager, he failed to take appropriate action that was reasonably designed to supervise a registered representative and prevent unsuitably excessive trading in a customer's account by the individual.

Ronald Adam Stewart (Registered Representative, Mahopac, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, and barred from association with any NASD

member in any capacity. Without admitting or denying the allegations, Stewart consented to the described sanctions and to the entry of findings that he forged contract withdrawal forms requesting partial liquidations from a public customer's annuity contracts and then converted the \$19,500 in proceeds to his personal use. The findings also stated that Stewart caused \$10,108 to be withdrawn from customers' accounts and converted the proceeds to his own use. Stewart converted a total of \$29,608 from public customers without their knowledge or consent.

Igor Eric Stolyar (Registered Representative, Brooklyn, New York) was censured, fined \$35,000, suspended until he pays an arbitration settlement, plus an additional 30 business days, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Stolyar failed to execute an order from a public customer to sell certain securities in the customer's account. Stolyar also failed to pay a \$10,300 arbitration settlement, and failed to respond to an NASD request for information and to appear for an interview.

Dale Cochren Trask (Registered Representative, Swampscott, Massachusetts) submitted an Offer of Settlement pursuant to which he was censured, fined \$250,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Trask consented to the described sanctions and to the entry of findings that he improperly converted \$157,250 of customer funds for his own use and benefit.

Stephen James Wilson (Registered Representative, Grand Haven, Michigan) 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 90 days, and required to requalify by exam as a representative. Without admitting or denying the allegations, Wilson consented to the described sanctions and to the entry of findings that he purchased securities for the accounts of a public customer, in which he had a beneficial interest, in violation of the Board of Governors' Free-Riding and Withholding Interpretation.

Richard Allan Yaksic (Registered Representative, Pitcairn, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$925,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Yaksic consented to the described sanctions and to the entry of findings that he caused a total of \$142,348.52 to be withdrawn from policies and mutual fund accounts owned by public customers and converted the funds to his own use and benefit. The findings also stated that Yaksic failed to remit approximately \$10,425 in premiums received from public customers, retaining them for his own use and benefit, and improperly caused a total of \$6,439.17 to be withdrawn from their policies and converted the monies to his own use and benefit. In addition, the NASD found that Yaksic failed to remit \$5,642.49 in premiums received from a public customer and converted such monies to his own use and benefit. Yaksic also converted to his own use and benefit \$1,081.48 of a public customer's funds intended to be used for the purchase of an annuity by the customer.

Jay Alan Yeggy (Registered Representative, Boise, Idaho) 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, Yeggy consented to the described sanctions and to the entry of findings that he submitted a falsified application for insurance for a public customer and a falsified delivery receipt for the insurance policy for this customer to his member firm. The findings also stated that Yeggy transmitted to a client falsified Common Remitter Billing Notices that overstated amounts due and owing on the client's insurance policies and, submitted a falsified insurance application for another public customer to his member firm.

Individuals Fined

Nicholas Robert Marino (Registered Principal, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was censured and fined \$15,000. Without admitting or denying the allegations, Marino consented to the described sanctions and to the entry of findings that a member firm, acting through Marino, effected, as principal, sales of warrants to public customers at prices that were unfair and unreasonable taking into consideration all relevant circumstances in that the prices charged to customers were not reasonably related to the prevailing market price.

David Carmichael Montano (Registered Principal, Orange, California) was censured, fined \$10,000, and ordered to requalify by exam as a general securities principal. The NAC affirmed the sanctions following a July 1998 SEC decision remanding the matter to the NASD. The sanctions were based on findings that Montano appeared on a television program and made recommendations regarding a stock while failing to provide a sound basis for evaluating the stock's financial prospects or his recommendation to sell the stock short. Montano also failed to

describe market conditions while highlighting the success of past recommendations. The findings also stated that Montano made exaggerated and unwarranted claims; made improper comparisons by referring to previous specific recommendations and implied comparable future results for his current recommendation; and made specific predictions and projections concerning future investment results.

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.

David Alvarado (Registered Principal, Commack, 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. The complaint also alleges that in connection with his solicitation of customers to purchase securities, Alvarado made future price predictions of securities when he knew, or should have known, that he did not have a reasonable basis for his predictions. The complaint also alleges that Alvarado effected transactions in the accounts of public customers without the customers' prior authorization. The complaint alleges that Alvarado also failed to execute a public customer's sell order.

Alberto Enrique Argomaniz (Registered Representative, Miami,

Florida) was named as a respondent in an NASD complaint alleging that he forged a public customer's signature on an insurance policy refund check for \$7,500, deposited the customer's refund check into his personal account, and used at least a portion of the funds for his own use and benefit, all without the knowledge or authorization of the customer. The complaint alleges that after the customer contacted Argomaniz several times questioning the whereabouts of the refund check, Argomaniz wired \$7,500 from his personal bank account to the customer's bank account.

Bradford Lee Brinton (Registered Representative, St. Joseph, Missouri) was named as a respondent in an NASD complaint alleging that he forged the signature of a public customer on a dividend check payable to the customer, in the amount of \$1,695.23, without the customer's knowledge or consent. The complaint alleges that Brinton then deposited the \$1,695.23 check into a bank account he controlled, and converted the funds to his own use and benefit, without the customer's knowledge or consent.

Emanuele Robert Cardaci (Registered Principal, Farmingville, 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, and, in connection with his solicitation of customers to purchase securities, Cardaci made future price predictions when he knew, or should have known, that he did not have a reasonable basis for his predictions. The complaint also alleges that Cardaci effected transactions in the accounts of public customers without the customers' prior authorization, and failed to execute a public customer's sell order. The complaint also alleges that Cardaci conditioned the pur-

chase of IPO securities upon an agreement to purchase additional securities in the secondary market when it commenced, which resulted in an economic detriment to the public customer and an economic benefit to Cardaci.

John Mike Dabal (Registered Principal, Smithtown, New York) was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to public customers. The complaint alleges that Dabal made statements that were materially false, misleading or exaggerated, and/or made statements for which there was no reasonable basis in fact, and failed to disclose material facts to public customers. The complaint also alleges that Dabal effected transactions in the accounts of public customers without the customers' knowledge or authorization and without having been granted discretionary authority, orally or in writing, to effect transactions.

Charles John Distefano (Registered Representative, Medford, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and failed to disclose material information to public customers in connection with his solicitation of customers to purchase securities. The complaint also alleges that Distefano failed to execute a public customer's sell order, and effected transactions in public customer accounts without the prior authorization of the customers. The complaint also alleges that Distefano failed to appear for an on-the-record interview with the NASD.

Averell Golub (Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that in connection with inducements for the offer, sale, and purchases of securi-

ties, Golub employed devices, schemes, contrivances, and artifices to defraud. The complaint alleges that Golub made material misrepresentations and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon public customers.

Mark Edwin Gort (Registered Principal, Wyoming, Michigan) was named as a respondent in an NASD complaint alleging that he executed transactions in 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 Gort failed to respond to NASD requests for information.

Patrice Roberto Harris (Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he 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.

Dean Llewellyn Kroenke (Registered Representative, Rochester, Minnesota) was named as a respondent in an NASD complaint alleging that he received a check in the amount of \$1,440 from a public customer for the purpose of investing in a variable life insurance policy, and without the knowledge or consent of the customer, cashed or deposited the check in a bank account he controlled, and converted the funds to his own use and benefit. The complaint also alleges that Kroenke failed to respond to NASD requests for information.

Landmark International Equities, Inc. (Westbury, New York), Howard Brett Berger (Registered Principal, Roslyn Heights, New York), Eric Jay Aronson (Registered Representative, Muttontown, New York), and William Nunziato (Registered Principal, Fresh Meadows, New York) were named as respondents in an NASD complaint alleging the firm, acting through Aronson, a controlling person of the firm, and through its registered representatives, engaged in the preselling of the aftermarket by soliciting customers to purchase securities in aftermarket trading as a requirement to purchase in the IPO and failed to inform the firm's customers that the IPO was not a *bona fide* public distribution. The complaint also alleges that the firm, acting through Berger and Aronson, entered into prearranged agreements with their customers to sell units of the IPO back to the firm in the immediate aftermarket trading of the security (flipping) and should have been aware that these "flippers" did not have *bona fide* investment intent and did not constitute the investing public for purposes of completing a *bona fide* public distribution. The firm acted as a Market Maker in the securities while units were redistributed, and attempted to induce other persons to purchase such securities before the initial distribution was completed. The firm, acting through Berger and Aronson, failed to tell its non-flipping customers that the IPO was not a *bona fide* public distribution and engaged in a secondary distribution using special selling efforts and selling methods. Furthermore, the complaint alleges the firm, acting through Berger, Aronson, and Nunziato, purchased common stock from former affiliates at a purchase price that was below the firm's contemporaneous sales of common stock to its customers and engaged in a secondary distribution using special efforts and selling methods and failed to tell its

customers that their interests would be diluted by the secondary distribution and that the IPO was not a *bona fide* public distribution. In addition, the complaint alleges that the firm, acting through Nunziato, failed to supervise Aronson adequately and properly with respect to the flipper transactions described above and failed to take any steps to discharge his supervisory responsibilities with respect to these transactions, and the firm, acting through Berger, failed to establish and maintain adequate written supervisory procedures to prevent the above violations and to address compliance with the securities laws and regulations relating to the underwriting and distribution of securities. Also, the complaint alleges that the firm, acting through Berger, allowed unregistered representatives to enter aftermarket trades while not registered and failed to supervise adequately the registration of its representatives. Furthermore, Aronson and Nunziato each failed to respond to an NASD request to appear for an on-the-record interview.

Edwin Leslie Lawrence, Jr. (Registered Representative, Dix Hills, New York) was named as a respondent in an NASD complaint alleging that he executed securities 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.

Mario J. Liriano (Registered Principal, Bronx, New York) was named as a respondent in an NASD complaint alleging that he improperly used and converted \$5,000 he received from public customers to invest in mutual funds. The complaint alleges that, instead of submitting the check to his firm, he presented the check for payment to a third party, converted the funds to his own use,

used some of the money to pay his personal expenses, and deposited the remainder into his personal bank account. The complaint alleges that Liriano attempted to conceal his conversion from his member firm by sending his firm the customers' application and his own personal check that was dated the same day he received the funds from the customers, and thereby attempted to mislead his employer into believing that the customers' funds were submitted contemporaneously with the investment application and not improperly used by Liriano. The complaint also alleges that Liriano presented his member firm with a personal check that was rejected for "insufficient funds," when he knew, or should have known, that he did not have the funds in his account to cover his personal check at the time it was presented to his firm.

Jeffrey Tod Marshall (Registered Representative, Atlanta, Georgia)

was named as a respondent in an NASD complaint alleging that he received an application from an individual to become associated with Marshall's member firm, as well as a personal check made out to Marshall for \$150 to cover her licensing fees, and rather than submitting the application and check to his firm, Marshall cashed the applicant's check and converted the proceeds to his own use and benefit. The complaint also alleges that Marshall failed to respond to NASD requests for information.

Scott Jason Siegel (Registered Representative, Dix Hills, 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, and made future price predictions of securities when he knew, or should

have known, he did not have a reasonable basis for his predictions. The complaint also alleges that Siegel failed to execute a public customer's sell order.

Andrew Frank Soldo, Jr. (Registered Representative, East Islip, 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, and made future price predictions of securities to public customers when he knew, or should have known, that he did not have a reasonable basis for his predictions. The complaint also alleges that Soldo effected transactions in the accounts of public customers without the prior authorization of the customers. The complaint alleges that when a public customer informed Soldo that he would not pay for a transaction because it had not been authorized by the customer, Soldo represented to the customer that other securities in the customer's account would be sold to pay for the transaction and that a judgment would be entered against the customer that would ruin his credit rating if he did not pay for the transaction. As a result of these alleged representations, the customer borrowed funds from a bank to pay for the transaction.

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.

Brownstone Capital Corp., New York, New York (March 8, 1999)

Greig Middleton, Inc., Boston, Massachusetts (March 8, 1999)

Kronos Investments Limited, Oklahoma City, Oklahoma (March 8, 1999)

Parker Bromley Ltd., Garden City, New York (March 8, 1999)

Pellett Investments, Inc., Missoula, Montana (March 8, 1999)

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

Biltmore Securities, Inc., Ft. Lauderdale, Florida (March 1, 1999)

H.J. Meyers & Co., Inc., Rochester, New York (March 1, 1999)

Hunter International Securities, Ft. Lauderdale, Florida (February 26, 1999)

Kentucky Eagle Financial Group, Inc., Louisville, Kentucky (March 1, 1999)

Westhagen & Westhagen, Inc., Ripon, Wisconsin (March 11, 1999)

Suspension Lifted

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

Barry F. Cohen & Company, Inc., Boca Raton, Florida (March 1, 1999)

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

Beasley, Jr., Jere L., Montgomery, Alabama (March 1, 1999)

Clark, William H., Staten Island, New York (March 1, 1999)

Curran, Gregory J., Springfield, Illinois (March 1, 1999)

Dabo, Jr., Mitchell J., Hollister, California (February 26, 1999)

Hannan, Joseph P., Newport Beach, California (March 1, 1999)

Lerner, Bernice L., New York, New York (February 26, 1999)

McAdoo, Duane S., Yonkers, New York (February 26, 1999 - March 16, 1999)

Nizza, Jr., Louis N., Deerfield Beach, Florida (February 26, 1999)

Schulz, Marc W., Rockford, Illinois (February 26, 1999)

Westhagen, Eric P., Ripon, Wisconsin (March 11, 1999)

NASD Regulation Fines PaineWebber for Registration Violations

NASD Regulation announced that it has censured and fined PaineWebber, Inc., \$50,000 in connection with violations of NASD rules requiring registration of individuals engaged in the securities business.

An examination of PaineWebber by NASD Regulation's District staff in New Orleans revealed that the firm failed to ensure that certain employees held all the proper registrations required for the functions they per-

formed. At various times from June 1989 to August 1998, those employees acted as general securities principals or representatives and were not properly registered as such. NASD Regulation also found that PaineWebber failed to establish, maintain, and enforce written supervisory procedures to ensure the proper registration of certain persons.

Under NASD rules, individuals engaged in the investment banking or securities business as representatives must pass a qualifications test and be registered with the member firm. Individuals who are actively engaged in the management of a firm's investment banking or securities business, including supervisory activities, must be appropriately registered as "principals" of the firm.

As part of its settlement, PaineWebber, which neither admitted nor denied the allegations, agreed to conduct a review of its supervisory procedures regarding registration of personnel within 90 days. After completion of the review, PaineWebber will implement changes necessary to ensure that all persons engaged in the firm's investment banking or securities business, or in the management thereof, are properly registered, and will submit a report to the staff detailing its review procedures and any revised supervisory procedures.

NASD Regulation Bars Pacific Cortez Securities, Formerly La Jolla Capital Corp., From Penny Stock Transactions

Firm Ordered to Pay Fines and Restitution in Excess of \$900,000

NASD Regulation announced that it has censured and barred San Diego-based Pacific Cortez Securities, formerly known as La Jolla Capital

Corp., from selling penny stocks. In addition, three of its senior officials have been sanctioned for violating federal securities laws governing the trading of penny stocks. Penny stocks are unlisted securities that trade over-the-counter and are typically priced under \$5 per share.

The decision was issued by NASD Regulation's NAC following an appeal of an earlier decision by its Los Angeles DBCC.

The NAC upheld the earlier decision that Pacific Cortez President Harold B.J. Gallison, and Branch Manager Christopher S. Knight be permanently barred from the penny stock industry for participating in a 17 month-long scheme promoting unlawful sales of penny stocks to unsuspecting investors. They were also ordered to pay fines of more than \$500,000. Separately, the firm and Gallison are jointly responsible for repaying more than 100 investors throughout the country almost \$400,000.

The NAC also found that Pacific Cortez Securities implemented a system to circumvent the SEC penny stock rules designed to ensure that investors receive honest and candid information about risk disclosure and suitability issues before they invest. The firm had investors sign a misleading document that purported to exempt the transactions from the rules' requirements. The letters were portrayed to investors as a "formality," and in some cases investors' signatures were forged. Pacific Cortez also was found to have implemented deficient supervisory policies and procedures designed to foster the improper claim of this exemption.

The sales practice abuses at Pacific Cortez were uncovered after a lengthy investigation by NASD Regulation's District Offices in Los Angeles, San Francisco, and Denver. The

NAC found that from January 1994 through May 1995, Pacific Cortez and certain of its senior officials circumvented investor protection laws in approximately 140 transactions involving 15 separate securities. All of the transactions involve penny stocks. The violations occurred at the firm's offices in San Diego, CA; New York, NY; Las Vegas, NV; and Bethesda, MD.

The following senior officials were sanctioned:

- Harold B.J. Gallison, President, and Pacific Cortez Securities were fined a total of \$397,380, plus costs (\$8,260.75). Gallison was also suspended in all capacities for 30 days; permanently barred from participating in penny stock transactions; permanently barred from acting as a supervisor; and censured.
- Gregory K. Mehlmann, National Branch Compliance Officer, was fined \$10,000 plus costs (\$3,500); suspended as a supervisor for 10 business days; ordered to retake the qualifying examination to become a supervisor; and censured.
- Christopher S. Knight, Branch Manager, was fined \$95,854, plus costs (\$6,500.00); permanently barred from acting as a supervisor; permanently barred from participating in penny stock transactions; suspended in all capacities for 15 days; and censured.

The NAC dismissed all charges against Robert C. Weaver, Chief Legal Counsel and Gerald J.R. Budke, Branch Manager. The firm has appealed the decision to the SEC. As a result, the findings may be modified or reversed. Gallison is still employed by Pacific Cortez Securities.

In related disciplinary actions between February 1996 and October 1996, 22 other Pacific Cortez brokers and supervisors, without admitting or denying liability, were fined and disciplined in connection with this case. Pacific Cortez Securities employs 53 brokers in six offices in California, New York, Georgia, and Nevada.

NASD Regulation Sanctions And Fines 10 Sterling Foster Brokers For Fraudulent "Boiler Room" Sales Practices; Orders \$1.1 Million Restitution

NASD Regulation announced that the use of "abusive" "high-pressure" "boiler room" sales practices designed to defraud investors were among the grounds for a disciplinary action that resulted in seven brokers being barred from the industry and suspensions for three others. The 10 former brokers of Sterling Foster & Co., Inc., a defunct Melville, New York broker/dealer, were ordered to pay investors a total of \$1,138,517 in restitution and fined a total of \$837,500. The violations of NASD rules and federal securities laws related to the sales of the securities of Advanced Voice Technologies, Inc.

This brings the total number of Sterling Foster brokers disciplined by the NASD in the past year to 31 and increases the total amount of fines and restitution imposed to \$4,256,393. Several more cases are pending.

According to the findings issued by the NASD Market Regulation Committee, the Sterling Foster brokers used a variety of high-pressure sales tactics, including: aggressive cold-calling, fraudulent misrepresentations, and baseless predictions of dramatic price increases. In many instances, customers requested, but were never sent, copies of the Advanced Voice offering prospectus. Customers were sometimes told that

the firm had simply "run out" of them. On those occasions when prospectuses were delivered, the brokers actively discouraged customers from reading them.

The Committee further found that, instead of revealing the true financial condition of the company, brokers at Sterling Foster sold Advanced Voice securities by representing to customers that the IPO was "oversold" or "oversubscribed" and that there would be a huge, unsatisfied demand for the stock once trading began, causing the price to soar. Customers frequently were urged to "act immediately or else [they] would miss out on this incredible opportunity to get rich." In some instances, brokers told customers that "it didn't matter if the company made screen doors for submarines." Brokers also, at times, misrepresented to customers that they were privy to inside information about the company.

Although Advanced Voice began trading at a substantial premium, rising as high as \$18.00 per share, the stock never came close to matching the brokers' unsubstantiated predictions. The NASD also found that the Sterling Foster brokers effected numerous unauthorized transactions in customer accounts, buying many more shares than the customers had authorized or could afford.

The Market Regulation Committee also noted that, for the most part, the customers who purchased Advanced Voice securities comprised a relatively sophisticated group. Many had previous experience investing, almost all were well-educated, and a surprising number were owners of their own successful businesses. Yet, they still succumbed to the Sterling Foster brokers' combination of relentless tactics and outlandish promises.

The NASD also found that, as a group, the Sterling Foster brokers embraced the firm's stated philosophy of "Buy or Die," meaning "never take 'no' for an answer" when selling securities to a customer. Each broker was expected to make hundreds of calls per day. Once a sale was made, however, the brokers simply ignored their customers' calls and frequently refused to accept sell orders. One customer-witness who had placed approximately 25 calls to the firm, testified that these were the "most evasive people I ever saw." In another instance, a customer who tried repeatedly to sell his shares, was told that the firm's "legal department" first had to approve the sale because the customer "had a short history with the firm." A former Sterling Foster broker who testified at the hearing, corroborated the customer-witnesses' accounts, and stated that when customers could not be dissuaded from selling, the order tickets would sometimes disappear, unexecuted, into the sales manager's "magic drawer."

The names of the 10 brokers disciplined by the NASD, and the sanctions imposed against them, are as follows:

Vincent Vaccaro - Censure; Permanent Bar; \$100,000 Fine; \$161,624 Restitution;

Vincent Carella - Censure; Permanent Bar; \$100,000 Fine; \$135,983 Restitution;

William Scuteri - Censure; Permanent Bar; \$100,000 Fine; \$223,200 Restitution;

Robert Paulson - Censure; Permanent Bar; \$100,000 Fine; \$82,006 Restitution;

Brian Kearney - Censure; Permanent Bar; \$100,000 Fine; \$64,410 Restitution;

Timothy Matthews - Censure; Permanent Bar; \$100,000 Fine; \$135,706 Restitution;

Michael Cohn - Censure; Permanent Bar; \$100,000 Fine; \$94,341 Restitution;

Diana Coblin - Censure; Two-Year Suspension; \$100,000 Fine; \$152,347 Restitution;

Joseph Ferrante - Censure; Six-Month Suspension; \$25,000 Fine; \$75,577 Restitution;

Claudia Silver - Censure; 30-Day Suspension; \$12,500 Fine; \$13,323 Restitution.

The Committee's decision regarding Vaccaro and Carella is final after 45

days, unless the matter is appealed to the NAC, or called for review by the NAC. The sanctions are not effective during this period. If the decision is appealed or called for review, the sanctions against Vaccaro or Carella may be increased, decreased, modified, or reversed. The decisions and sanctions imposed against the remaining eight brokers are the result of settlements submitted and approved after the disciplinary hearing was completed, and as such, they are now final.

This matter was investigated and prosecuted by NASD Regulation's Denver District Office and Enforcement Department in Washington, D.C. Assistance was also provided by NASD Regulation's Corporate Finance Department. NASD Regulation wishes to express its appreciation to the U.S. Attorney's Office for the Southern District of New York and the Northeast Regional Office of the SEC for their cooperation and assistance in this matter.

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