

Disciplinary Actions

Disciplinary Actions Reported For February

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 Tuesday, February 16, 1999. The information relating to matters contained in this *Notice* is current as of the end of January 20, 1999.

Firm Fined, Individual Sanctioned

Ascend Financial Services, Inc. (St. Paul, Minnesota) and Barry Howard Burton (Registered Representative, Great Falls, Virginia) submitted Letters of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$20,000, and Burton was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 14 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm allowed a registered representative to sign a variable annuity application as the registered representative of record, falsely indicating that he had sold the investment, when, in fact, the variable annuity had been sold by another registered representative. Moreover, the NASD found that the firm accepted the variable annuity application knowing that the individual had never met with and/or discussed the variable annuity investment with the client. The findings also stated that Burton signed two variable annuities applications as the registered representative of record, falsely indicating that he had sold the investments, when, in fact, the

variable annuities had been sold by another registered representative.

Burton, however, shall not be required to serve the suspension, having already served a 14-day suspension in July 1996 imposed by his member firm based on the same conduct.

Firms And Individuals Fined Equity Programs Corporation (San Diego, California) and Barton

Basel Switzer (Registered Principal, Ramona, California) submitted an Offer of Settlement pursuant to which they were censured and fined \$25,000, 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 Switzer, failed to establish, maintain, and enforce a system reasonably designed to achieve compliance with applicable securities laws and regulations, and the rules of the NASD in order to supervise the activities of a branch office. The firm also knew, or should have known, that the branch office was offering and selling interests in a contingent offering.

Kennedy, Cabot & Co., (Beverly Hills, California) and James Dominic Toussaint (Registered Principal, Los Angeles, California)

submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$25,000, jointly and severally, and the firm was fined an additional \$2,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Toussaint, aired television commercials concerning registered investment companies, and failed to file the advertisements with the NASD's Advertising Department. The findings also stated that the firm, acting through Toussaint, engaged in communications to the

public through television commercials that failed to provide a sound basis for evaluating the facts in regard to the securities offered, and omitted material facts and qualifications which, in light of the context of the material presented, caused the advertisements to be misleading. Moreover, the NASD found that the firm, acting through Toussaint, made exaggerated and unwarranted claims, and/or contained comparative references that were incomplete and unbalanced. The NASD also determined that the firm failed to establish, maintain, and enforce adequate procedures to address the NASD's filing requirements for mutual fund advertisements, and to identify in its written supervisory procedures, a supervisory principal responsible for communications with the public.

Pellett Investments, Inc. (Missoula, Montana) and **Ronald Neil Pellett (Registered Principal, Missoula, Montana)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Pellett, participated in contingent offerings of limited partnership interests and failed to transmit funds received from investors to a proper escrow account as required by Securities and Exchange Commission (SEC) Rule 15c2-4(b). The findings also stated that the firm, acting through Pellett, failed to maintain records documenting the completion of the continuing education training plan for covered registered persons, and failed to complete and implement a needs analysis and training plan for the Continuing Education Firm Element.

Firms Fined

Joseph Stevens & Company, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$38,393. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted a registered person to continue to perform duties as a registered person even though the person had not complied with the NASD continuing education requirements.

M.H. Meyerson & Company, Inc. (Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable securities laws and regulations regarding trade reporting. The findings also stated that the firm failed to update its own quotation for broadcast orders into SelectNetSM immediately. Furthermore, the firm failed to display customer limit orders immediately 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 change in relation to the size associated with the firm's bid or offer in each security.

Smith Barney, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$17,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it

reported transactions to the ACT in violation of applicable securities laws and regulations regarding trade reporting. The findings also stated that the firm failed to preserve for a period of not less than three years the memoranda of brokerage orders and failed to show the correct time of execution, or the time of execution, on memoranda of brokerage orders. The firm also failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws, regulations, and rules regarding trade reporting and recordkeeping.

W. J. Nolan & Company, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$5,000, jointly and severally, with an individual, and required to disgorge \$22,060 in excessive markups to public customers. Should disgorgement payments not be completed by a specified time, the firm will be suspended until such time as such payments have been completed. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through an individual, it effected municipal securities principal transactions at excessive markups.

William E. Simon & Sons Municipal Securities, Inc. (Morristown, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it made a \$10,000 payment to a member firm purportedly in connection with a municipal bond transaction in the hope of developing a business relationship with the firm. According to the findings, the respondent's records regarding expenses

for the transaction inaccurately reflected that \$10,000 was paid to the other firm in connection with that offering and its records regarding disbursement of cash and debits for the transaction inaccurately reflected that \$10,000 was paid to the firm as management fees for that offering.

Individuals Barred Or Suspended

Craig Douglas Baker (Registered Representative, West Jordan, Utah) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$12,250, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Baker consented to the described sanctions and to the entry of findings that he intercepted approximately \$450 worth of gift certificates/checks intended to compensate other employees for overtime they had earned, deposited the checks into his own bank account, and used the money for his personal use.

Alfred Gerald Block (Registered Principal, Livingston, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, fined \$2,500, and suspended from acting as a principal for 30 days. Without admitting or denying the allegations, Block consented to the described sanctions and to the entry of findings that he failed to have a financial and operations principal registered with the NASD at his member firm, and as a result, he was responsible for the firm's failure to file some of its FOCUS reports, to file some FOCUS reports in a timely manner, and to file its annual audit report.

Djoly Boliere (Associated Person, Stamford, Connecticut) submitted an Offer of Settlement 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, Boliere consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Clyde Joseph Bruff (Registered Principal, Oakland, California) was censured and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of an August 1997 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that Bruff exercised effective control over the account of a public customer and made recommendations to the customer that resulted in unsuitable excessive trading.

This action has been appealed to the Ninth Circuit Court of Appeals and the sanctions are not in effect pending consideration of the appeal.

John Milford Buob (Registered Representative, Henderson, Nevada) submitted an Offer of Settlement pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Buob consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide prompt written notification to his member firm prior to participating in such transactions. The findings also stated that, in connection with the offer or sale of limited partnership interests, Buob made misrepresentations to investors and failed to return investor funds when the terms of the contingency were not met. The findings also stated that Buob recommended and induced public customers to purchase the security by means of fraudulent and deceptive devices and contrivances in that he represented to customers that proceeds of a limited partnership

offering would be used to pay the purchase price of real estate and office building improvements. The NASD found that Buob knew, or should have known, that only \$64,399.43 of the necessary \$212,500 had been raised and, therefore, the proceeds were insufficient to pay the purchase price of such real estate and were instead used to pay suppliers of goods or services consumed or used by Buob in the conduct of his business.

Harvey Michael Burstein (Registered Representative, Leawood, Kansas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$57,100, and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Burstein consented to the described sanctions and to the entry of findings that he engaged in outside business activities for which he received compensation and engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Peter Thomas Chen (Registered Principal, Sayville, 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 Chen failed to respond to NASD requests for information and failed to appear for testimony.

Michael Henry Christ (Registered Principal, Lynbrook, New York) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Christ failed to respond to NASD requests for information.

Keith Robert Cottrell (Registered Representative, Washington, D.C.) was censured, fined \$25,000, and

barred from association with any NASD member in any capacity. The sanctions were based on findings that Cottrell failed to respond to NASD requests for information.

Dennis Wayne Cowden (Registered Representative, Pittsburgh, Pennsylvania) was censured, suspended from association with any NASD member in any capacity for two months, and required to requalify by exam before again becoming registered in any capacity. The sanctions were based on findings that Cowden recommended and effected securities transactions for the accounts of public customers without having reasonable grounds to believe that such transactions were suitable based on the information disclosed by the customers concerning their financial situations and needs.

Rudolph Crockett, Jr. (Registered Representative, Westerville, Ohio) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$925,000, barred from association with any NASD member in any capacity, and required to pay \$179,642 in restitution to a member firm. Without admitting or denying the allegations, Crockett consented to the described sanctions and to the entry of findings that he received funds totaling \$179,642 from public customers. The NASD determined that Crockett deposited these funds into accounts under his control without the knowledge or permission of the customers and used the funds for his own benefit without their knowledge, authorization, or consent.

Glenn Adam Davis (Registered Principal, West Palm Beach, Florida) was censured, fined \$75,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Davis executed unauthorized

transactions in a public customer's account.

Carlton Case Ellis (Registered Principal, Mercer Island, Washington) was censured, fined \$25,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam in all capacities before again being employed in the securities industry. The sanctions were based on findings that Ellis participated in private securities transactions without giving his member firm prior written notification. Ellis also signed a letter agreement on behalf of his member's clearing firm without authority to do so.

Gregory Marclafau Hawkins, Jr. (Registered Representative, Mission Viejo, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$112,900, barred from association with any NASD member in any capacity, and ordered to pay \$7,580 in restitution to a public customer. Without admitting or denying the allegations, Hawkins consented to the described sanctions and to the entry of findings that he solicited and sold to a public customer an investment in a business entity he formed away from his member firm. Although the customer gave Hawkins \$20,000 for investment purposes, the customer received a promissory note evidencing only a \$10,000 investment in the company. In addition, the NASD found that Hawkins proceeded to convert approximately \$7,580 of the customer's funds to his personal use and benefit. The above-described transactions were effected outside the regular course and scope of his employment with his member firm, and Hawkins failed to provide prior written notice to, or obtain written approval from, his firm.

Kirby Michael Hryn (Registered Representative, Clearfield, Pennsylvania) submitted a Letter of

Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$18,000 in restitution to defrauded investment club members. Without admitting or denying the allegations, Hryn consented to the described sanctions and to the entry of findings that he converted approximately \$18,000 from members of an investment club, of which he was also a member, without the consent or authority of the club members.

James Andrew Hyde (Registered Principal, Niwet, Colorado) 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 two years. Without admitting or denying the allegations, Hyde consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information in a timely manner.

Ann Wei Ping Lo (Registered Principal, New York, 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 Lo failed to appear for an on-the-record interview.

James Dean Loeffelbein (Registered Representative, Bucyrus, Kansas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for one day. Without admitting or denying the allegations, Loeffelbein 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.

Smail Loutfi (Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$213,437.31, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Loutfi consented to the described sanctions and to the entry of findings that he arranged to have an impostor take the Series 7 exam on his behalf.

Robert Gregory McCormack (Registered Principal, Ft. Myers, Florida) was censured, fined \$60,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that McCormack conducted a securities business while not registered. McCormack also forged a registered representative's signature on a new account application and failed to respond to NASD requests for information.

Arleigh Clayton Merrill (Registered Representative, Jacksonville, Florida) was censured, fined \$17,500, and suspended from association with any NASD member in any capacity for six months. The sanctions were based on findings that Merrill effected a private securities transaction and guaranteed a customer against a loss.

Norman Mathias Merz (Registered Principal, Brookfield, Wisconsin) was censured, fined \$110,000, and barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) affirmed the sanctions following review of a Chicago District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Merz engaged in private securities transactions without prior written notice to, and approval from, his member firm. Merz also failed to give prompt written notice to his firm

of compensation received from outside business activities.

Donerval Kevin Moreland (Registered Representative, San Clemente, California) was censured, fined \$65,000, barred from association with any NASD member in any capacity, and ordered to pay \$25,000 plus interest in restitution to a public customer. The sanctions were based on findings that Moreland recommended, offered, and sold securities without being properly registered. Furthermore, Moreland recommended securities to a public customer without having reasonable grounds for believing the securities were suitable for the customer. Moreland also failed to respond to NASD requests for information about his sales practices.

Vincent Michael Nunez (Registered Representative, Staten Island, New York) was censured, fined \$50,000, barred from association with any NASD member in any capacity, and ordered to disgorge to the NASD all monies he earned in the securities industry before becoming registered, in the amount of at least \$5,151. The sanctions were based on findings that Nunez arranged to have an impostor take the Series 7 exam on his behalf. Nunez also failed to respond to NASD requests to appear for on-the-record interviews.

Donald Charles Panek (Registered Representative, Fort Madison, Iowa) 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, Panek consented to the described sanctions and to the entry of findings that he participated in private securities transactions without prior written notice to, and written approval and/or acknowledgment from, his member firms.

James Basil Peters (Registered Representative, Oxnard, California) was censured, fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and required to requalify as a general securities representative. The NAC imposed the sanctions following appeal of a Los Angeles DBCC decision. The sanctions were based on findings that Peters forged the signature of a bank branch manager on documents submitted to his firm that falsely reflected purchases involving new funds and thereby increased Peters' commission payout.

Christopher John Plucinski (Registered Representative, Stevenson Ranch, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$255,000, barred from association with any NASD member in any capacity, and ordered to pay \$782.17 in restitution to a member firm. Without admitting or denying the allegations, Plucinski consented to the described sanctions and to the entry of findings that he received \$35,000 from a public customer for investment purposes. According to the findings, Plucinski did not apply the funds as directed by the customer, and instead, converted the funds to his own use and benefit by depositing the funds into his bank account, and writing personal and business checks on the funds without the customer's knowledge or consent.

Donald Eugene Radle (Registered Principal, Springfield, Missouri) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Radle failed to respond to NASD requests to appear for an on-the-record interview.

Kirk Francis Ruffler (Registered Representative, Perrineville, 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 Ruffler failed to respond to NASD requests for information.

Randel Arthur Russell (Registered Representative, Wheeling, West Virginia) 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 six months. Without admitting or denying the allegations, Russell consented to the described sanctions and to the entry of findings that he received cash from a public customer intended for deposit into a money market account and failed to handle the funds properly. According to the findings, Russell placed the funds in a non-secure location and certain funds were lost. The findings also stated that Russell accepted checks intended for employee contributions to a company-sponsored Simple Individual Retirement Account (IRA) and failed to forward those checks promptly to the mutual fund company for investment.

Russell Marlowe Ryan (Registered Representative, Hempstead, 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 Ryan failed to respond to NASD requests to appear for on-the-record interviews.

Steven Paul Sanders (Registered Principal, Jericho, New York) and **Daniel Mark Porush (Registered Principal, Oyster Bay Cove, New York)**. Sanders was censured, fined \$25,000, and barred from association with any NASD member in any capacity, and Porush was censured, fined \$250,000, and barred from association with any NASD member in any capacity. The SEC affirmed

the sanctions following appeal of a December 1996 NBCC decision. The sanctions were based on findings that Sanders charged excessive markups in the sale of warrants as a consequence of his member firm's domination and control of the market for those securities. In addition, Porush failed to establish and enforce supervisory requirements that might have prevented the markup violations.

Steven Albert Seager (Registered Representative, Geneseo, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$275,000, barred from association with any NASD member in any capacity, and required to pay \$49,935.37 in restitution to a member firm. Without admitting or denying the allegations, Seager consented to the described sanctions and to the entry of findings that he caused loans totaling \$49,935.37 to be made against the life insurance policies of public customers. According to the findings, Seager caused the checks for these loans to be mailed to a post office box under his control, endorsed the checks, and used the proceeds for his own benefit without the prior authorization or consent of the customers.

Wallace Efford Sheely (Registered Principal, Gulfport, Mississippi) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$6,800, and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Sheely consented to the described sanctions and to the entry of findings that he exercised discretion in the individual accounts of public customers without prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm.

Daniel Wright Sisson (Registered Principal, Menlo Park, California) was censured, fined \$35,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam as a general securities representative. The NAC imposed the sanctions following review of a San Francisco DBCC decision. The sanctions were based on findings that Sisson recommended trades that were unsuitable as to size and frequency in the accounts of public customers.

Chad Robert Soerens (Registered Representative, Middleton, Wisconsin) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Soerens failed to respond to NASD requests for information.

Gerald James Stoiber (Registered Representative, Mokena, Illinois) was censured, 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. The SEC affirmed the sanctions following appeal of a March 1996 NBCC decision, and following dismissal of an appeal to the U.S. Court of Appeals. The sanctions were based on findings that Stoiber engaged in private securities transactions while failing to give prior written notification to his member firm of his intention to engage in such activities.

Steve Tabaluyan (Associated Person, Palatine, Illinois) 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, with the right to reapply for association with an NASD member firm three years from the date of the effectiveness of

the bar. Without admitting or denying the allegations, Tabaluyan consented to the described sanctions and to the entry of findings that he altered his Series 6 test results to show that he passed the exam, when in fact, he failed the exam, and presented the altered results to his member firm.

Carlos Christopher Tellez (Registered Representative, Darmstadt, Germany) submitted an Offer of Settlement pursuant to which he was censured, fined \$13,000, and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, Tellez consented to the described sanctions and to the entry of findings that he misused \$155,000 belonging to a public customer. According to the findings, Tellez deposited the funds in his personal business account, failed to purchase mutual fund shares for the customer, and failed to promptly return the funds to the customer as requested.

Steven Harry Vornea (Registered Representative, Brookville, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$700,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Vornea consented to the described sanctions and to the entry of findings that he acted as principal of his member firm while failing to register as a principal with the NASD. The findings also stated that Vornea caused his firm and its registered representatives to purchase securities before the completion of each of the distributions. Furthermore, the NASD found that Vornea, through his direct and indirect actions, caused his firm to engage in numerous sales practice abuses including, but not limited to, baseless price predictions or guaran-

tees, misrepresentations about issuers, failures to execute customer orders, and requiring customers to purchase aftermarket shares as a condition of receiving initial public offering units, and other high pressure tactics. In addition, the NASD determined that Vornea, through his direct and indirect actions, caused his firm and its registered representatives to manipulate the prices of securities in aftermarket trading, and as a result, the firm generated over \$6 million in illegal profits. Vornea also failed to supervise the activities of his member firm's registered representatives to ensure compliance with applicable securities laws, regulations, and NASD rules.

John Jeffrey Walker (Registered Representative, Covington, Kentucky) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Walker failed to respond to NASD requests for information.

Andrew Neal Watson (Registered Principal, Raleigh, North Carolina) submitted a Letter of Acceptance, Waiver, and Consent 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, Watson consented to the described sanctions and to the entry of findings that he misappropriated \$19,137.78 from his member firm by arranging to have himself paid unauthorized increases in his salary.

Todd Richard Woods (Registered Representative, Columbus, Ohio) 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 60 days. Without admitting or denying the allegations,

Woods consented to the described sanctions and to the entry of findings that he forged the signature of a public customer onto documents that caused the customer's IRA accounts to be transferred to another firm, without the prior knowledge or consent of the customer.

Individuals Fined

Lance Reed Dalton (Registered Representative, Isle Of Palms, South Carolina) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$22,400. Without admitting or denying the allegations, Dalton consented to the described sanctions and to the entry of findings that he engaged in numerous purchase and sale transactions in various securities without having reasonable grounds for believing that such recommendations were suitable for the customers and accounts in view of the frequency of the recommended transactions; the risks associated with the recommended transactions; and the customers' financial situations, objectives, circumstances, and needs.

William H. Gerhauser, Sr. (Registered Principal, Surrey, Great Britain) and **William C. Gerhauser, Jr. (Registered Principal, Brentwood, New York)** were censured and fined \$15,000, jointly and severally. In addition, William H. Gerhauser was required to requalify by exam as a financial and operations principal, and William C. Gerhauser was required to requalify by exam as a general securities principal. The SEC imposed the sanctions following appeal of a November 1997 NBCC decision. The sanctions were based on findings that the Gerhausers, acting on behalf of a member firm, conducted a securities business while failing to maintain adequate net capital. The firm, acting through William H. Gerhauser, filed

inaccurate FOCUS Part I and IIA reports, failed to maintain accurate books and records, and failed to give telegraphic notice of a net capital deficiency.

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 January 20, 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*.

Roger Harry Chlowitz (Registered Principal, Northridge, California)

was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Chlowitz failed to respond to NASD requests for information and to provide documents.

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

Robert Jay Kendzierski (Registered Representative, Erie, Pennsylvania)

was censured, fined \$80,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Kendzierski converted \$6,000 in funds given to him by a public customer by receiving checks totaling \$10,000 from the customer to be deposited in an interest-bearing insurance policy. Kendzierski altered the checks made payable to his member firm and wrote his name instead on the payee line of the checks, converted \$6,000 of the funds to his own use and benefit. Also, Kendzierski made two payments to repay the customer for

\$1,000 and \$5,050, and in an attempt to conceal his conversion, he backdated the \$5,050 check. Kendzierski appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal.

Terry Don Rader (Registered Principal, Dallas, Texas)

was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Rader failed to respond to NASD requests for information.

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

Jerome Edward Rosen (Registered Representative, Miami, Florida)

was censured, fined \$62,000, and suspended from association with any NASD member in any capacity for six months. The sanctions were based on findings that Rosen engaged in anti-competitive harassment of another Market Maker by making a series of telephone calls to the broker in which he attempted to harass the broker for engaging in competitive trading and entering competitive quotations, and otherwise attempted to improperly influence and/or interfere with the broker's competitive activities. Rosen also made certain threatening statements to the broker. The findings also stated that Rosen backed away from a specific order another broker placed with him at his quoted bid or offer for a Nasdaq SmallCapSM security.

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

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.

Ralph Charles Altomare (Registered Representative, Bellevue, Washington)

was named as a respondent in an NASD complaint alleging that he effected transactions in the accounts of public customers without the prior authorization and consent of the customers.

Daniel Richard Howard (Registered Representative, Cambridge, Massachusetts)

was named as a respondent in an NASD complaint alleging that he recommended and initiated purchase and sales transactions in the securities account of a public customer without having reasonable grounds for believing that the recommendations and resulting transactions were suitable for the customer in view of the size, frequency, concentration of speculative securities; the nature of the recommended transactions; and in light of the customer's financial situation, investment objectives, circumstances, and needs. The complaint also alleges that Howard falsely answered a question on his Form U-4 and failed to update his Form U-4 to reflect that he was the subject of an NASD investigation in connection with his recommendation of unsuitable securities to a customer.

Damon Todd Lazar (Registered Representative, Plainview, New York)

was named as a respondent in an NASD complaint alleging that he knowingly or recklessly made numer-

ous material misrepresentations of fact to a public customer in connection with his recommendation to purchase common stock. The complaint also alleges that the misrepresentations were material to the investment decision of the customer and caused him to refrain from executing sales of his position in the common stock. The customer was thereby lulled by Lazar into a false sense of security with respect to his position in the common stock.

John Anthony Massaro (Registered Representative, Smithtown, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations, failed to disclose material facts, and made fraudulent price predictions to public customers in connection with his solicitation to customers to purchase securities. The complaint also alleges that Massaro effected transactions in the accounts of public customers without the prior authorization of the customers. The complaint alleges that Massaro failed to execute sell orders as instructed by public customers. The complaint also alleges that Massaro failed to respond to NASD requests for information.

Firms Suspended/Canceled

The following firms were suspended 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 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.

Alden Capital Markets, Inc., New York, New York (January 13, 1999)

American Freedom Securities, Inc., Rochester, New York (January 13, 1999)

Ash Financial Corp., Great Neck, New York (January 13, 1999)

Cassidy & Co., Inc., Blue Bell, Pennsylvania (January 13, 1999)

Elswick, Banks and Associates, Inc., Atlanta, Georgia (January 13, 1999)

Fisher Hill Securities Corporation, San Francisco, California (January 13, 1999)

Fundamental Service Corporation, New York, New York (January 13, 1999)

J. Robbins Securities, L.L.C., New York, New York (January 13, 1999)

Suspensions Lifted

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

Northbridge Financial Services, Ann Arbor, Michigan (December 18, 1998)

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

Bryant, Steven Ernest, Pompano Beach, Florida (January 13, 1999 - January 15, 1999)

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