

Disciplinary Actions

Disciplinary Actions Reported For October

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 Rule-making Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, October 19, 1998. The information relating to matters contained in this *Notice* is current as of the end of September 23.

Firms and Individuals Fined

B. Riley & Company, Inc. (Los Angeles, California) and **Bryant R. Riley (Registered Principal, Pacific Palisades, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$12,000, 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 Riley, 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 establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws and regulations, and with applicable NASD rules relating to the designation of supervisory personnel, trade reporting, and recordkeeping.

J. B. Oxford & Company (Beverly Hills, California) and **Stephen M. Rubenstein (Registered Principal, Chatsworth, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$20,000, jointly and severally. In addition, the firm

was fined \$5,000, jointly and severally, with another individual. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting under the direction and control of Rubenstein, failed to maintain margin requirements in certain customer accounts of its day traders. The findings also stated that the firm, acting under the direction and control of another individual, failed to compute accurately the amount required to be deposited into the Special Reserve Bank Account for the Exclusive Benefit of Customers and failed to deposit the amount required to be deposited into the account no later than one hour after the opening of banking business on the second following business day.

Olsen Payne and Company (Salt Lake City, Utah) and **James Dean Payne (Registered Principal, Salt Lake City, Utah)** submitted an Offer of Settlement pursuant to which they were censured and fined \$16,000, 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 Payne, reported transactions through ACT in violation of applicable securities laws and regulations regarding trade reporting. The findings also stated that the firm, acting through Payne, failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws and regulations and NASD rules regarding trading ahead of customer limit orders, and short-sale rules.

Portfolio Management, Inc. (Little Rock, Arkansas) and **Samuel L. Bowman, III (Registered Principal, Little Rock, Arkansas)** submitted an Offer of Settlement pursuant to which they were censured and fined

\$14,500, 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 Bowman, allowed the entry of proprietary trades through the Small Order Execution System (SOES) into an account controlled by Bowman. The findings also stated that the firm, acting through Bowman, failed and neglected to establish, maintain, and enforce proper supervisory procedures governing the entry of trades through SOES.

Securities America, Inc. (Omaha, Nebraska) and **Thomas Gerard Zielinski (Registered Principal, Omaha, Nebraska)** submitted an Offer of Settlement pursuant to which they were each censured and fined \$10,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Zielinski failed to take steps reasonably designed to ensure that a branch manager carried out his supervisory responsibilities over registered persons in a reasonable manner under the attendant circumstances, or that the registered persons ceased their participation in unsupervised sales of unapproved promissory notes away from the member firm. The findings also stated that the firm failed to establish adequate written procedures or unwritten procedures to ensure the reasonable supervision of a registered representative to ensure that he was reasonably performing his supervisory duties over the activities of registered persons in regard to their compliance with the applicable NASD rules.

Sy Leavitt Company, Inc. (Escondido, California), William L. Atkinson (Registered Principal, Carlsbad, California), Thomas G. Scalzo, Jr. (Registered Principal, Loma Linda, California), and

William J. Schurmann (Registered Principal, Escondido, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$10,625, 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 under the direction and control of Atkinson, Scalzo, and Schurmann, participated in a contingency offering of securities and withdrew funds received from public customers from the bank escrow account to which they had been deposited before the terms of the contingency were met.

Firms Fined

Columbia Hospital Securities Corporation (Nashville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed individuals to maintain their representative registrations with the firm, although they were not at all times actively engaged in the securities business of the firm. The findings also stated that the firm failed and neglected to achieve compliance with the Firm Element of the Continuing Education Requirements in that the firm failed to prepare adequate written training plans and failed to maintain adequate records documenting the content and completion of training programs by registered persons.

Empire Securities Incorporated of Washington (Spokane, Washington) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to ACT in viola-

tion of applicable securities laws and regulations regarding trade reporting. 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 and record-keeping.

Interstate/Johnson Lane Corporation (Charlotte, North Carolina) submitted an Offer of Settlement pursuant to which the firm was censured, fined \$10,000 and ordered to disgorge \$62,640 to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to make and keep current a list of political contributions to officials of issuers. The findings also stated that the firm failed to list political contributions made by a registered representative and engaged in prohibited municipal securities business with the city of Charlotte, North Carolina.

Needham & Company, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it received customer limit orders to buy and to sell stock, and failed to execute contemporaneously the customer orders after it bought or sold shares for its own market-making account. The findings also stated that the firm 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. Furthermore, the NASD determined that when the firm acted as principal for its own account, it failed to provide written

notification to a customer that the price to the customer was an average of the trade prices reported by the firm to ACT. In addition, the NASD found that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules regarding trade reporting, Securities and Exchange Commission (SEC) Order Execution Rules, Best Execution, Anti-Competitive Practices, and SOES.

Normandy Securities, Inc. (Scarsdale, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured, fined \$10,000, and required to undertake revision of the firm's written supervisory procedures relating to firm quote compliance in a manner not unacceptable to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered Market Maker, the firm was presented an order at the firm's published bid or published offer in an amount up to its published quotation size and failed to execute the orders thereby failing to honor its published quotation. 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 concerning the SEC and NASD firm quote rules.

Individuals Barred or Suspended

Jeremy David Alk (Registered Representative, Seattle, Washington) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$31,000, and barred from association with any NASD member in any capacity. Without admitting or deny-

ing the allegations, Alk consented to the described sanctions and to the entry of findings that he wrote checks drawn on a nonprofit social organization totaling \$4,203 and, without authorization, used \$4,000 of the funds for his personal benefit.

Vincent Au (Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify as a general securities representative by taking the Series 7 exam prior to again acting in any registered capacity with the NASD. Without admitting or denying the allegations, Au consented to the described sanctions and to the entry of findings that he wired funds to a public customer in an attempt to settle a customer complaint away from the firm, without the knowledge and consent of his member firm.

Vincent Alan Beck (Registered Representative, Wayne, New Jersey) was censured, fined \$35,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Beck received a \$118 check from a public customer for insurance premium payments, failed to apply the funds toward the insurance premiums, endorsed the check, and converted the monies to his own personal use. Beck also failed to respond to NASD requests for information.

Dean K. Birkelo (Registered Representative, Colorado Springs, Colorado) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for 30 days. The Denver District Business Conduct Committee

(DBCC) imposed the sanctions following an order of remand by the National Business Conduct Committee (NBCC). Without admitting or denying the allegations, Birkelo consented to the described sanctions and to the entry of findings that he engaged in a private security transaction and failed to provide prior written notice to his member firm.

Nicholas Robert Borissoff (Registered Representative, Concord, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$70,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Borissoff consented to the described sanctions and to the entry of findings that he recommended to public customers and effected in their accounts the purchase and sale of securities which transactions were unsuitable for the customers in light of their size and frequency and in light of the facts disclosed by customers as to their other security holdings and their financial situations and needs. The findings also stated that Borissoff participated in private securities transactions while failing to give prior written notification of these transactions to his member firm.

Paul Francis Byrne (Registered Principal, Red Bank, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, suspended from association with any NASD member in any capacity for five months, and required to comply with the regulatory computer-based training of the Regulatory Element of the Continuing Education Requirements beginning within two months of his reentry into the securities industry. Without admitting or denying the allegations, Byrne consented to the described sanctions and to the entry of findings that he failed to exercise his supervisory obligations adequately. According to the find-

ings, Byrne allowed the use of scripts or sales presentations by registered representatives at his member firm that were materially false and misleading in that, among other things, they did not contain disclosure of risk factors or negative factor information, and created a wholly optimistic picture as to the likely success of an investment. In addition, the NASD found that some of the scripts included inaccurate or materially incomplete information about the issuers of the securities being sold, and some provided for improper price predictions or comparisons among unrelated securities.

Arthur Emil Cohen (Registered Representative, Pittsburgh, Pennsylvania) submitted an Offer of Settlement pursuant to which he was censured, fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$15,000 plus interest in restitution. Without admitting or denying the allegations, Cohen consented to the described sanctions and to the entry of findings that he requested that a check in the amount of \$15,000 be issued against the securities account of a public customer, obtained the check, endorsed it with the purported endorsement of the customer and his own endorsement, and deposited the check into his bank account, without the customer's prior authorization. The findings also stated that Cohen caused \$14,000 to be transferred from the securities account of one customer to the bank account of another customer without the prior authorization of the first customer.

Mitchell John Dabo, Jr. (Registered Principal, Hollister, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Dabo participated in the

purchase of limited partnership interests without providing prior written notification to his member firm.

James Michael Dean (Registered Representative, Atlanta, Georgia) was censured, fined \$185,245.50, barred from association with any NASD member in any capacity, and ordered to pay \$14,549.10, plus interest in restitution to a public customer. The sanctions were based on findings that Dean forged the signature of a public customer on a letter of authorization in order to convert the public customer's funds to his own use and benefit; without the customer's knowledge or authorization, Dean deposited the checks into an unauthorized account, had checks drawn against the unauthorized account, and converted the proceeds of those checks to his own use and benefit.

In addition, Dean deposited a public customer's checks in an undisclosed securities account at another member firm and did not provide written notification to his member firm nor did he advise the executing firm of his association with another, caused checks made payable to himself and others in the amount of \$14,549.10 to be drawn against the account. Dean also failed to respond to NASD requests for information.

Peter F. Drewek (Registered Representative, Baltimore, Maryland) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Drewek failed to respond to NASD requests for information.

Eric Scott Elkins (Registered Representative, Vincennes, Indiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$360,000, barred from association with any NASD member in any

capacity, and ordered to pay \$57,029.98 in restitution. Without admitting or denying the allegations, Elkins consented to the described sanctions and to the entry of findings that he obtained a total of \$57,029.98 in checks drawn on bank accounts of public customers, which funds represented the proceeds of mutual fund liquidations for the customers. The NASD determined that Elkins, without the knowledge or consent of the customers, caused the checks to be deposited in bank accounts and/or mutual fund accounts maintained in his name, and used the funds for some purpose other than for the benefit of the customers. Elkins also failed to respond to NASD requests for information.

Michael Peter Finn (Registered Representative, Babylon, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Finn consented to the described sanctions and to the entry of findings that he made material misrepresentations and omitted material facts in connection with his recommendations of securities to public customers. The findings also stated that Finn made fraudulent price predictions to customers in connection with his recommendations and made an unauthorized transaction in the account of a public customer.

Edward Golick (Registered Principal, Del Mar, California) was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Golick failed to respond to NASD requests to appear for an on-the-record interview.

George Glen Hartberg (Registered Principal, Los Angeles, California) and **John Wesley Hartberg (Registered Principal, Los Angeles, California)** were each censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that they failed to respond to NASD requests for information.

Donald Martin Hogan, Jr. (Registered Representative, St. Louis, Missouri) 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, Hogan consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Christopher Edward Jann (Registered Representative, Centereach, New York) was censured, fined \$5,000, suspended from association with any NASD member in any capacity for 60 days, and ordered to retake the Regulatory Element of the Continuing Education Requirements before reassociating with an NASD member. The sanctions were based on findings that Jann solicited members of the public to become customers of his member firm and purchase stock offered by the firm, and in connection with such solicitation, made certain representations about the securities and the offering that he knew, or should have known, to be false and misleading and omitted information that he knew, or should have known, to be material to the investment decision of the persons he solicited.

Maurice Henry Jedda (Registered Representative, Great Neck, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined

\$40,000, barred from association with any NASD member in any capacity, and required to offer proof to the NASD that recession totaling \$345,000 was made to public customers. Without admitting or denying the allegations, Jedda consented to the described sanctions and to the entry of findings that he effected private securities transactions for public customers without prior written notification to his member firm. The findings also stated that not only did Jedda fail to notify his member firm of his own personal investment of \$75,000 in a private securities transaction, but he also actively attempted to conceal this information from the firm.

Ronald Mills Johnston (Registered Representative, Rockford, Illinois) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to pay \$346,110.40 in restitution. Without admitting or denying the allegations, Johnston consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed and neglected to give written notice of his intention to engage in such activities to his member firms and to receive written approval from the firms to engage in such activities.

Bernadette Jones (Registered Representative, Pomona, California) was censured, fined \$3,500, barred from association with any NASD member in any capacity, and ordered to pay \$2,516.56 in restitution to a member firm. The National Adjudicatory Council (NAC) imposed the sanctions following the review of a Los Angeles DBCC decision. The sanctions were based on findings that Jones received \$6,000 from a public customer for the purpose of purchasing a life insurance policy. Jones submitted an application for a

different insurance policy with a money order for \$1,483.44 to her member firm and misused the remainder of the funds received from the customer for her own use and benefit. In addition, Jones submitted a Form U-4 to her member firm that contained false and misleading information.

Gloria Anita Jordan (Registered Representative, Brooklyn, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Jordan failed to respond to NASD requests for information.

Ian Tamer Kideys (Registered Representative, Los Angeles, California) was censured, fined \$84,811.37, and suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that Kideys participated in private securities transactions, for which he received compensation, and failed to provide prior written notification to, or obtain written approval from, his member firm.

Mark Kevin Lammers (Registered Representative, Tucson, Arizona) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Lammers consented to the described sanctions and to the entry of findings that he participated in private securities transactions without giving prior written notice to his member firm and therefore failed to receive written approval from his firm. The findings also stated that Lammers made misrepresentations and omissions in his solicitation of securities to public customers.

Donald Clewell Maier (Registered Principal, Monte Sereno, California) was censured, fined \$39,750, suspended from association with any NASD member in any capacity for 30 business days, and ordered to requalify by exam before reassociating with an NASD member firm. The sanctions were based on findings that Maier participated in private securities transactions without providing prior written notification to his member firm and filed an annual questionnaire with his firm that contained false information concerning private placements and unregistered securities.

Douglas John Mangan (Registered Representative, Massapequa, New York) was censured, fined \$120,000, and barred from association with any NASD member in any capacity. The NAC affirmed the sanctions following appeal of a New York DBCC decision. The sanctions were based on findings that Mangan created a false and inaccurate customer securities account statement and caused his member firms' records to indicate falsely the customer's address as his own without the knowledge, consent, or authorization of the customer. Mangan also failed to respond to NASD requests to appear for an on-the-record interview.

Wayne Albert McIntosh (Registered Representative, Phoenix, Arizona) submitted an Offer of Settlement pursuant to which he was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, McIntosh consented to the described sanctions and to the entry of findings that he participated in private securities transactions for compensation and failed to provide prior written notice to, or receive prior authorization from, his member firm.

David C. McLaurin (Registered Representative, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for one week. Without admitting or denying the allegations, McLaurin consented to the described sanctions and to the entry of findings that he completed and signed a Form U-4 that contained inaccurate information. The findings also stated that McLaurin provided his member firm with a false college diploma that he had created on his personal computer.

Arlesta Mae Meyers (Registered Representative, Wichita, Kansas) submitted a Letter of Acceptance, Waiver and Consent 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, Meyers consented to the described sanctions and to the entry of findings that she provided materially incomplete information to the NASD in response to requests for information.

Jose Reynaldo Moreno (Registered Representative, Phoenix, Arizona) was censured, fined \$20,000, suspended from association with any NASD member in any capacity for three years, and ordered to requalify by exam before reassociating with any NASD member firm. The sanctions were based on findings that Moreno failed to respond completely to NASD requests for information.

Mike D. Nolan (Registered Representative, Denham Springs, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$700,000, barred from association with any NASD member in any capacity, and

required to demonstrate that full restitution has been made to the appropriate parties. Without admitting or denying the allegations, Nolan consented to the described sanctions and to the entry of findings that he received checks and cash totaling \$116,550 from public customers for the purpose of investing in medical receivables, failed and neglected to invest these funds on the customers' behalf, and instead converted the funds to his own use and benefit, without the customers' knowledge or consent. The findings also stated that Nolan failed to respond to NASD requests for information.

Allen R. Prewitt (Registered Representative, Bradenton, Florida) was censured, fined \$10,000, and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following its review of an Atlanta DBCC decision. The sanctions were based on findings that Prewitt provided false information on a Form U-4.

Anthony Eugene Priolo (Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days and required to requalify as a general securities representative by taking the Series 7 exam before ever functioning again in that capacity. Without admitting or denying the allegations, Priolo consented to the described sanctions and to the entry of findings that he prepared documentation for the accounts of public customers containing information which he knew or should have known to be inaccurate.

Ivan A. Radowitz (Registered Representative, Jamesburg, New Jersey) 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, Radowitz consented to the described sanctions and to the entry of findings that he endorsed and deposited a public customer's rollover check in the amount of \$7,780.05 into his personal bank account, without the consent or knowledge of the customer. The findings also stated that Radowitz misappropriated \$200 in cash from another public customer, which represented a partial premium payment from the customer for a new policy.

Joel Jacob Reznick (Registered Representative, Wheeling, Illinois) submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Reznick consented to the described sanctions and to the entry of findings that he purchased shares of stocks for the account of a public customer without the knowledge or consent of the customer and in the absence of written or oral authorization to exercise discretion in the account.

Christopher Lee Rice (Registered Representative, Buffalo Grove, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$15,506.83, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Rice consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in the accounts of public customers without the customers' prior knowledge, authorization, or consent. In addition, Rice executed unauthorized margin transactions in the account of public customers without the customers'

knowledge, authorization, or consent that the transactions were done on margin rather than in the customers' cash account.

Cheryl Ann Rodgers (Registered Representative, Dallas, Texas) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Rodgers failed to respond to an NASD request for testimony.

Jeffrey L. Salzwedel (Registered Principal, Tualatin, Oregon) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$107,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Salzwedel consented to the described sanctions and to the entry of findings that he made unsuitable recommendations for the purchase and/or sale of various securities in the accounts of public customers without having reasonable grounds for believing that such recommendations were suitable for these customers in view of the number of shares purchased and held, the nature of the recommended securities, the concentration of securities held in the accounts, and the customers' specific financial situations, circumstances, and needs.

Michael Dennis Shaw (Registered Principal, Atlanta, Georgia) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Shaw consented to the described sanctions and to the entry of findings that he effected the purchase of units in an initial public offering (IPO) for the account of a public customer without the customer's knowledge or consent.

Joseph Anthony Simonell (Registered Representative, Rancho Palos Verdes, California) 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 two years. Without admitting or denying the allegations, Simonell consented to the described sanctions and to the entry of findings that he sent letters to investment product companies stating that he had recently conducted an investor seminar at which the companies' products were mentioned. The letters offered the companies the opportunity to participate in the seminars and referenced receipt from a local restaurant itemizing purported expenses he incurred. The NASD found that Simonell had not conducted a seminar nor had he incurred any expenses. Simonell received checks from two of the firms for \$100 and \$200, cashed the checks, and deposited the funds into his bank account.

John S. Smoot, Jr. (Registered Representative, Jackson, Tennessee) submitted an Offer of Settlement pursuant to which he was censured, fined \$75,000, barred from association with any NASD member in any capacity, and ordered to pay \$6,300 in restitution to the appropriate parties. Without admitting or denying the allegations, Smoot consented to the described sanctions and to the entry of findings that he received payments from public customers for the purchase of, and as payment on, various homeowner's insurance policies, automobile insurance premiums and a life insurance policy, failed and neglected to submit these funds to his member firm on the customers' behalf, and instead converted the funds to his own use and benefit, without the customers' knowledge or consent. Smoot also failed to respond to NASD requests for information.

John J. Squeri, Jr. (Registered Representative, Atlantic Beach, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and required to requalify by exam in all capacities. Without admitting or denying the allegations, Squeri consented to the described sanctions and to the entry of findings that he executed the sale of shares of securities in the account of a public customer without the customer's prior knowledge, authorization, or consent. The findings also stated that Squeri contacted another customer, a resident of the state of Georgia, and identified himself as another registered representative in an attempt to obtain information from the customer for his new account form. The NASD determined that Squeri contacted this person when his registration to conduct business within and from the state of Georgia was suspended.

William Kevin Stewart (Registered Principal, Cape Girardeau, Missouri) 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, Stewart consented to the described sanctions and to the entry of findings that he failed to respond completely to an NASD request for information.

Michael Taliercio (Registered Representative, Brooklyn, New York), James Garofalo, Jr. (Registered Representative, Flushing, New York), Robert Francis Smith (Registered Representative, Gaithersburg, Maryland), April Wiener (Registered Representative, Plainview, New York), and Edward Sparacio (Registered Representative, Brooklyn, New York) submit-

ted Offers of Settlement pursuant to which Taliercio was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Garofalo was censured, fined \$20,000, suspended from association with any NASD member in any capacity for 18 months, and required to requalify by exam prior to becoming associated with any NASD member, and Smith was censured, fined \$10,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam prior to becoming associated with any NASD member. Wiener was censured, fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and required to requalify by exam prior to becoming associated with any NASD member firm, and Sparacio was censured, suspended from association with any NASD member in any capacity for three years, and required to requalify by exam prior to becoming associated with any NASD member firm. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Taliercio, Garofalo, Smith, Wiener, and Sparacio made baseless and improper price predictions to public customers regarding speculative securities, and Taliercio, Garofalo, and Smith made materially false and misleading statements. The findings also stated that Taliercio, Garofalo, Smith, and Sparacio made misrepresentations as to specific issuers, and Taliercio and Garofalo claimed to have access to inside information. Moreover, the NASD found that Taliercio, Wiener, and Sparacio engaged in unauthorized trading, Taliercio and Sparacio made unfounded comparisons between unrelated securities, and Taliercio improperly failed to execute or discouraged sell orders, made false and misleading representations as to the risk of investing in a speculative

security, and engaged in unsuitable trading in a customer's account. Furthermore, the NASD determined that Garofalo and Wiener made false promises to limit losses to customers, and Wiener and Sparacio promised to make up losses with new trading. Garofalo and Smith failed to execute a sell order. Garofalo, Smith, and Sparacio provided false testimony to the NASD. Sparacio told a public customer to disregard information in prospectuses and falsified records as to customers' financial conditions.

Ada Lai Yin Tam (Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was censured, fined \$15,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Tam consented to the described sanctions and to the entry of findings that she falsified her Form U-4 applications by failing to include her prior association with a member firm and by stating that she was employed for over two years at a member firm where she had never been employed. The findings also stated that Tam impersonated another representative in order to obtain privileged and confidential information about an investigation and, provided false information to the NASD concerning her prior employment and securities industry compensation in response to a written request for information.

Rooney Thomas (Registered Representative, Coral Springs, Florida) 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, Thomas consented to the described sanctions and to the entry of findings that he failed to enter sell orders per public

customers' instructions and guaranteed the customers against losses in their account. The findings also stated that Thomas received \$21,000 from a public customer for investment purposes and never invested the money as instructed, and instead, deposited the check in his personal bank account. Thomas also failed to respond to NASD requests for information.

Spiro George Tsotsos (Registered Principal, Upper Brookville, New York) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Tsotsos consented to the described sanctions and to the entry of findings that he failed to appear for testimony before the NASD.

Richard Leroy Valentine (Registered Representative, Goddard, Kansas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Valentine 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 firm.

Christiaan P. Van Der Put (Registered Representative, Pittsburgh, Pennsylvania) submitted an Offer of Settlement pursuant to which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Van Der Put consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Jeffrey Mark Vassallo (Registered Representative, Munster, Indiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$15,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Vassallo consented to the described sanctions and to the entry of findings that, without the knowledge or consent of a public customer, he submitted disbursement request forms to his member firm for the purpose of causing policy loans and/or the surrender of paid-up additional insurance to be made against insurance policies owned by the customer with the proceeds to be used in payment of the premiums for the second insurance policy owned by the customer.

Kelly Ray Webb (Registered Representative, Gilbert, Arizona) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Webb consented to the described sanctions and to the entry of findings that he placed inaccurate information on order tickets that were submitted to an NASD member in connection with securities transactions. The findings also stated that Webb effected an unauthorized transaction in public customer accounts and effected mutual fund purchases for a public customer in amounts that, if aggregated, would have caused the account to be eligible for reduced sales charges.

Ted Daniel Wells (Registered Representative, Kennesaw, Georgia) was censured, fined \$5,000, and barred from association with any NASD member in any capacity. The NAC imposed the sanction following its review of an Atlanta DBCC decision. The sanctions were based on

findings that Wells effected the sale of warrants for the account of a public customer without the customer's prior knowledge or authorization.

Jere Thomas Wickert (Registered Principal, Chicago, Illinois) was censured, fined \$9,000, and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Wickert recommended and effected index options transactions in customers' accounts without the knowledge, consent, or authorization of the customers and in the absence of a reasonable basis for believing that the recommendations were suitable for the customers in light of their investment objectives, experience, financial situations, or needs.

Bryan Scott Zimmerman (Registered Representative, Land O'Lakes, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Zimmerman consented to the described sanctions and to the entry of findings that he faxed a letter to a public customer that failed to conform to NASD prospectus requirements and included information regarding an IPO in which he made an unwarranted price prediction.

Individuals Fined

Graciela Armendariz (Registered Principal, El Paso, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was censured, fined \$25,000, and ordered to requalify as an investment company and variable contracts products representative by taking and passing the Series 6 exam prior to acting again in any registered capacity. Without admitting or deny-

ing the allegations, Armendariz consented to the described sanctions and to the entry of findings that, while associated with a member firm, Armendariz made payments of commissions received in connection with the sale of variable annuity products to an individual who was registered with another member firm that was not authorized to sell variable annuity products in the state where the sales took place. These payments were made without prior oral or written authorization from the member firm.

Kevin Michael Dunnigan (Registered Representative, Kalispell, Montana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured and fined \$10,000. Without admitting or denying the allegations, Kalispell consented to the described sanctions and to the entry of findings that he recommended investments to public customers without having reasonable grounds for believing that such recommendations were suitable for these customers in view of the nature of the recommended investments, the facts disclosed by these customers as to their other security holdings, their financial situations, circumstances, objectives, and needs.

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 September 23, 1998. 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*.

Hattier, Sanford & Reynoir, L.L.P. (New Orleans, Louisiana) and Gus A. Reynoir (Registered Principal, New Orleans, Louisiana) were censured and fined \$10,000, jointly and severally. The sanctions were based on findings that the firm, acting through Reynoir, participated in the sale of municipal bonds and provided public customers with confirmations that failed to meet the requirements of MSRB Rule G-15. The firm, acting through Reynoir, issued confirmations that failed to disclose the lower of the yield to call or yield to maturity, the fact that the securities were initially offered at an "original issue discount", failed to disclose the fact that the securities were subject to the alternative minimum tax, and the fact that the securities were unrated. In addition, this decision serves as a Letter of Caution as to the firm, acting through Reynoir, for engaging in municipal securities sales transactions with public customers at prices that were unfair and unreasonable, taking into consideration all relevant factors.

The firm and Reynoir have appealed to the NAC and the sanctions are not in effect pending consideration of the appeal.

Robert Charles Madrid (Registered Representative, Blue Island, Illinois) was censured and fined \$10,000. The sanctions were based on findings that Madrid executed securities transactions in the account of a public customer without the customer's knowledge, authorization, or consent and in the absence of written or oral authorization discretion in the account.

This action has been called for review by the NAC and the sanctions are not in effect pending consideration of the review.

Joel Dean Moore (Registered Principal, Redding, California) was censured and fined \$11,900. The sanctions were based on finding that Moore recommended to public customers and effected for the customers' account the purchase of securities without having reasonable grounds for believing that such recommendations were suitable for the customers based upon the facts disclosed by the customers as to their other securities holdings and their financial situation and needs.

This action has been called for review by the NAC and the sanctions are not in effect pending consideration of the review.

Philip J. Schiller (Registered Principal, Highland Park, Illinois) was censured and fined \$57,747.30. The sanctions were based on findings that Schiller purchased securities in IPOs that traded at a premium in the immediate aftermarket in violation of the NASD's Free-Riding and Withholding Interpretation.

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

Kevin Harrison Stricklin (Registered Principal, Cranston, Rhode Island) was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that Stricklin, in recommending and urging public customers to buy speculative and/or unseasoned securities, made baseless price predictions and/or predictions of returns. In addition, Stricklin, in connection with the purchases of securities, made untrue statements of material facts and/or omitted to state material facts necessary to make the statements by them, in

light of the circumstances in which they were made, not misleading.

Stricklin 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.

Gregory Alan Casady (Registered Principal, Kansas City, Missouri)

was named as a respondent in an NASD complaint alleging that he executed unauthorized transactions in customer accounts without the customers' prior knowledge, authorization, or consent. The complaint alleges that Casady utilized the proceeds from the sale of a stock to cover the purchase of the same stock. The complaint also alleges that Casady failed to respond to NASD requests for information.

Daniel Joseph DiPoalo (Registered Representative, Matawan, New Jersey) was named as a respondent in an NASD complaint alleging that he received \$144,850.58 in funds from public customers for investment purposes and, contrary to the customer's instructions and without their knowledge, failed to invest the funds and, instead, converted the funds by depositing them in his own personal accounts. The complaint alleges that DiPoalo has repaid two of the customers a total of \$26,000, and that

his employer firm has reimbursed the customers all but \$44,531.32 for the funds misappropriated by DiPoalo. The complaint also alleges that DiPoalo failed to respond to NASD requests for information.

Kai Fang (Registered Representative, Flushing, New York)

was named as a respondent in an NASD complaint alleging that he guaranteed a public customer against loss. The complaint alleges that Fang paid \$2,798.40 in a personal check to the customer as reimbursement for the loss incurred in the customer's account.

Deborah W. Henke (Registered Representative, Newbury Park, California)

was named as a respondent in an NASD complaint alleging that she met with public customers to discuss opening an investment account and preparing an investment plan, requested and received approximately \$4,900 in U.S. Treasury Bonds from the customers, and was never heard from again, despite repeated attempts by the customers and others to contact her. The complaint alleges that Henke never returned the U.S. Treasury Bonds to the customers. The complaint also alleges that Henke failed to respond to NASD requests for information.

Christopher Thomas McNamara (Registered Representative, Dix Hills, New York)

was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omitted material information in the course of soliciting public customers to purchase securities. The complaint alleges that McNamara effected transactions in public customer accounts without the prior authorization and consent of the customers. The complaint also alleges that McNamara predicted the future price of securities to public customers without having a reasonable basis for his predictions. The

complaint alleges that McNamara failed to contact a public customer in order to permit the customer to give instructions regarding his account, and failed to follow customer instructions to sell securities.

Rocco Anthony Vignola (Registered Representative, Bohemia, New York)

was named as a respondent in an NASD complaint alleging that he forged a public customer's signature on an application for an insurance policy in the customer's name and submitted the application, without the customer's knowledge or authorization. The complaint alleges that Vignola also forged the customer's signature on a check for \$908, which reflected the customer's credit resulting from the cash surrender of a separate insurance policy, and used a portion of the proceeds of that check to pay for the aforementioned unauthorized insurance policy.

James Thomas Walsh (Registered Representative, Commack, New York)

was named as a respondent in an NASD complaint alleging that he made material misrepresentations and failed to disclose material facts to public customers, in order to induce the customers to purchase securities. The complaint alleges that Walsh made fraudulent price predictions in connection with his recommendations to public customers to purchase securities. The complaint also alleges that Walsh effected a transaction in the account of a public customer, without the prior authorization of the customer.

Joseph A. Watters (Registered Representative, Monroeville, Pennsylvania)

was named as a respondent in an NASD complaint alleging that he conducted private securities transactions without giving prior written notice to, or receiving approval from, his member firm. The complaint alleges that Watters rec-

ommended that a public customer purchase a promissory note, without having reasonable grounds for believing that this recommendation and resulting transaction was suitable for the customer on the basis of her financial situation, investment objectives, and needs. The complaint also alleges that, in connection with the offer and sale of the aforementioned promissory note, Watters made misrepresentations to the public customer.

James Clark Williams (Registered Representative, Bloomsburg, Pennsylvania) was named as a respondent in an NASD complaint alleging that he received checks totaling \$166,560 from a public customer for the purpose of paying an insurance premium and purchasing securities. The complaint alleges that each of the checks was drawn to the order of James C. Williams at his request, that he negotiated each of the checks, and that he did not remit the proceeds of the checks to the customer's insurance company, nor did he otherwise cause the proceeds to be applied to the purposes for which the customer intended. The complaint also alleges that Williams mailed documents to the customer purporting to be account statements issued by the insurance company for the customer's investments, when in fact, the statements were false in that they were not issued by the insurance company and the customer did not have such accounts with the insurance company.

Firms Suspended

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.

Aequus Equities, Inc., New York, New York (August 31, 1998)

Alliance Asset Group, Inc., Englewood Cliffs, New Jersey (August 31, 1998)

Biscayne Capital LLC, New York, New York (August 31, 1998)

Fedick & Company, Inc., Easton, Connecticut (August 31, 1998)

Great Lakes Capital, Inc., Vero Beach, Florida (August 31, 1998)

McCormick-O'Mara Securities Co., New York, New York (August 31, 1998)

Nationwide Asset Management Corporation, Laguna Hills, California (August 31, 1998)

Firms Suspended Pursuant To NASD Rule Series 9510 For Failure To Pay Arbitration Award

First Cambridge Securities Corp., New York, New York (September 15, 1998)

First United Equities Corp., New York, New York (September 3, 1998)

J.S. Securities, Inc. (a/k/a First National Equity Corp.), Point Pleasant Beach, New Jersey (August 10, 1998)

Marsh, Block & Company, Inc., New York, New York (August 21, 1998)

Matrix Securities Corporation, Garden City, New York (August 20, 1998)

Meyers Pollock Robbins, Inc., New York, New York (August 24, 1998)

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

Alonzo, Arthur Andrew, Boca Raton, Florida (August 21, 1998)

Bonetti, Guiseppe, Brooklyn, New York (September 3, 1998)

Briganti, Nicholas Anthony, Brooklyn, New York (August 24, 1998)

Cohen, Jason Alan, Searingtown, New York (September 3, 1998)

Corso, Mark A., Brooklyn, New York (September 22, 1998)

Domin, Michael, Forest Hills, New York (September 15, 1998)

Mahon, Kevin Michael, Manalapan, New Jersey (August 21, 1998)

Smith, Brian Mark, Douglasville, Georgia (September 18, 1998)

Steel, Todd Coleman, Coral Springs, Florida (August 24, 1998)

Swayzee, Jerry, Boulder, Colorado (September 15, 1998)

Traynor, Douglas K., Pound Ridge, New York (September 3, 1998)

Weinstein, Howard, Port Washington, New York (September 3, 1998)

NASD Regulation Fines Olde Discount Corp. \$1.35 Million; Founder Ernest Olde Also Fined \$500,000 and Suspended

NASD Regulation fined Olde Discount Corporation \$1.35 million and censured it in connection with the firm's sales practices, including the distribution and use of improper advertising and promotional literature. Ernest J. Olde, the firm's former President and Chairman, was fined an additional \$500,000, suspended from the securities industry for 18 months, and censured. Both Olde Discount and Ernest Olde neither admitted nor denied NASD Regulation's findings.

As part of a coordinated regulatory effort, the Securities and Exchange Commission (SEC) also announced settlements with Ernest Olde and Olde Discount. In April 1993, Olde Discount began a major national print, radio, and television advertising campaign to promote "commission-free" trading. The first program featured the firm's "Smart Trade Account." Olde Discount advertised that through this account, investors with at least \$500,000 in cash or securities could buy or sell 1,000 or more shares of common stock worth at least \$5 a share, without being charged "markups, markdowns, or commission fees of any kind."

Later, in June 1994, Olde Discount began advertising a second program – SmartTrading – saying that any purchase of 1,000 or more shares of an Olde Discount recommended stock would be "commission-free – without markups of any kind." At the time, Olde Discount wrote and distributed a brochure, SmartTrade, Commission-less Trading Account, which explained how it could afford to offer this advantage. The firm answered its own question – "So, what is the catch?" – by stating: "Quite simply, there is none." The

brochure further explained that the firm would absorb the costs of these commission-less trades in the hope that customers would use the firm's other services, such as margin accounts.

In fact, although not disclosed in the advertising, Olde Discount and its registered representatives derived economic benefits from this "commission-free" trading. For example, the firm often derived revenue by capturing the spread between a stock's bid and ask price – and the broker was paid a portion of the spread in the form of sales credits. NASD Regulation found that Olde Discount's brokers failed to tell many investors that the firm actually made money on "commission-free" trades, even when they asked.

NASD Regulation found that both Olde Discount and Ernest Olde – who was involved in, and oversaw the adoption of most of the firm's advertising and compensation policies – violated the National Association of Securities Dealers' advertising rules because the firm and "its brokers' communications with the public failed to provide a sound basis for evaluating the facts in regard to the services characterized as 'commission-free' or 'commission-less' offered by the firm."

NASD Regulation also found that beginning in the fall of 1992, through August 1995, Olde Discount's registered representatives engaged in a series of fraudulent practices, including: churning, unauthorized trading, misrepresentations, omissions of material facts, and unsuitable recommendations. A consequence of Olde Discount's compensation, production, hiring, and training practices created an environment in which these violations occurred, NASD Regulation found. The SEC

sanctioned Olde Discount and Ernest Olde for this conduct and required the firm to waive statute of limitations defenses for certain arbitration claims by its customers.

Furthermore, NASD Regulation found that Ernest Olde failed to establish supervisory systems that could have prevented this conduct and was a cause of the firm's violations.

Ernest Olde was also separately sanctioned for failing to cooperate with an NASD Regulation's investigation, as all registered brokers and brokerage firms are required to do. NASD Regulation found that Ernest Olde failed to produce documents and information in a timely fashion and improperly refused to complete his on-the-record testimony after NASD Regulation declined to limit its questioning of him to one questioner per topic.

Twelve months of Ernest Olde's 18-month NASD Regulation suspension will run concurrently with his SEC suspension, and the remaining six months will be served thereafter. He is also required to take certain requalification examinations before he can re-enter the securities industry.

As part of the settlement, Olde Discount must, for the next 12 months, pre-file all of its advertisements that relate to commissions or charges to customers, markups, or broker/firm compensation with NASD Regulation.

This action resulted from an investigation by NASD Regulation's Enforcement and Advertising Regulation Departments. NASD Regulation also thanked the SEC for its assistance in this case.

NASD Regulation Fines DLJ \$100,000 For Trading Halted Stock

NASD Regulation announced that it has fined Donaldson, Lufkin & Jenrette Securities \$100,000 for executing a trade of a New York Stock Exchange (NYSE) listed security during a trading halt imposed by The Nasdaq Stock Market® and the NYSE. The firm was also censured.

The security in question was traded in the third market. Over-the-counter trading of exchange-listed securities is commonly known as third-market trading. Third-market transactions are effected by NASD member brokerage firms and are reported to Nasdaq®.

On January 29, 1997, Nasdaq and the NYSE halted trading in the security at 9:31 a.m., based on news that the company planned to restate its earnings. Trading did not resume until 2:02 p.m. on January 31, 1997.

NASD Regulation found that DLJ arranged buy and sell orders for a total of 6,511,900 shares of the company's stock on behalf of 29 separate customer accounts during the trading halt. The firm transmitted the orders – which had already been matched together – to an offshore, non-NASD member brokerage firm that completed them as a crossing transaction.

Offshore brokerage firms are located outside of the United States and, therefore, are not required to be members of the NASD.

DLJ, which neither admitted nor denied NASD Regulation's findings, was sanctioned for violating the NASD's rule that states no broker or brokerage firm "shall, directly or indirectly, effect any transaction in a security as to which a trading halt is currently in effect."

NASD Regulation Sanctions Hibbard, Brown Branch Managers

NASD Regulation today announced a decision by its District 9 Business Conduct Committee (DBCC) barring three former Hibbard, Brown & Co. branch managers from the securities industry and fining them a total of \$245,000 for operating a boiler room and for committing numerous sales practice violations. Hibbard was expelled from the NASD in 1994.

After a 14-day hearing, the DBCC found that Hibbard was a "classic boiler room operation" and that the three branch managers of Hibbard's Pittsburgh, Wayne, and Lancaster, PA offices were "integral cogs" in the fraudulent sales system. According to the decision, Hibbard's boiler room evolved directly from one set-up by its predecessor, the now defunct First Jersey Securities.

The three branch managers are:

- Steven D. Goodman – Barred, fined \$75,000 for his role in operating Hibbard's Pittsburgh, PA branch, and censured.
- Albert J. Ford – Barred, fined \$95,000 for his role in operating Hibbard's Wayne, PA branch, and censured.
- Douglas F. Andrews – Barred, fined \$75,000 for his role in operating the Lancaster, PA branch, and censured.

The DBCC found Goodman, Ford, and Andrews perpetuated the fraud by recruiting young, inexperienced brokers and training them to use highly aggressive, cold calling techniques to sell low-priced, speculative securities. All three were found to have encouraged Hibbard's brokers to use misleading sales literature and scripts during sales presentations to customers.

The decision also found that all three committed egregious sales practices abuses, including: providing baseless price predictions, misrepresentations, and unwarranted hyperbole about the securities they were selling. Ford also engaged in a pattern of unauthorized trading in the accounts of three customers.

To date, NASD Regulation's reviews of Hibbard's sales practices in its Pennsylvania, New Jersey, Kansas, and Missouri branch offices have resulted in a total of 41 formal disciplinary actions, including: 20 individuals who were barred from the securities industry, 3 individuals who were barred from acting as supervisors, 18 individuals who were suspended, and fines of more than \$2.3 million.

Initial actions, such as this, by NASD Regulation disciplinary committees are final after 45 days, unless they are appealed to NASD Regulation's National Adjudicatory Council (NAC), or called for review by the NAC. The sanctions are not effective during this period. If the decision in this case is appealed or called for review, the findings may be increased, decreased, modified, or reversed.

NASD Regulation Continues Microcap Market Focus; Complaints Name Brokers At Greenway Capital and Kensington Wells

NASD Regulation today announced that it has filed complaints in two microcap fraud cases. A total of 23 brokers at Greenway Capital and Kensington Wells, Inc., were named in the two separate complaints.

In both cases, NASD Regulation's complaints allege a series of fraudulent practices and the extensive use of abusive and high-pressure "boiler room" sales tactics to sell low-priced speculative securities to retail investors.

Greenway Capital Corp.

At Greenway Capital Corp., a now defunct New York, NY, brokerage firm that was also known as Cortlandt Capital Corp., 11 brokers – including the firm's President, John J. Margiotta; and one of its owners, Fred R. Luthy – were charged with a variety of sales practice and supervisory violations. Also named in the complaint are: Alan J. Mandel, Jason A. Prussing, James J. Crimi, Jeffrey S. Geoghegan, Javier Hernandez, James Morrill, Joseph A. Ricci, Cosmo Scali, and Joseph S. Tarulli.

NASD Regulation charged seven of the 11 brokers with fraud in connection with the April 1996 underwriting of Dialysis Corporation of America (DCA). Based on interviews with investors across the country, and after investigating customer complaints against the firm and its brokers, NASD Regulation uncovered evidence of numerous instances of unauthorized trading, misrepresentations, and the use of illegal boiler room sales tactics. For example, many investors complained that Greenway's brokers threatened to cancel their purchases of the initial public offering (IPO) if the investors refused to make additional investments in DCA.

The complaint also charges that many investors had their purchases canceled when they refused to buy additional DCA shares in the aftermarket.

In addition, NASD Regulation charged that the owners of certain favored accounts – such as former Greenway brokers, a relative of a current Greenway broker, and a former girlfriend of a Greenway broker – were permitted to purchase securities (both stock and warrants) in the IPO, and then sell them back to Greenway for a quick profit. These

customers were not required to purchase DCA shares in the aftermarket.

The complaint alleges that in the DCA offering Greenway used young, inexperienced brokers to sell low-priced, highly speculative securities to retail customers through boiler room sales tactics such as: trading without customer authorization; making material misrepresentations including making baseless price predictions; omitting material information; guaranteeing future stock performance; failing to execute customer orders; and not executing orders promptly.

NASD Regulation also charged six of the 11 brokers with unauthorized trading in connection with Greenway's dealings in several "house stocks," including: Hariston Corporation, Consolidated Western & Pacific Resources, Smartel Communications Corp., and J.B. Oxford Holdings, Inc. House stocks are generally viewed as those that have been underwritten by a single brokerage firm in circumstances where that firm is in control of much of the company's outstanding shares and dominates the aftermarket trading. The complaint alleges a series of violations with respect to these stocks, including: unauthorized trading; material misrepresentations and omissions; baseless price predictions; falsifying firm records; failing to follow customer instructions to sell securities; misusing customer funds; and violating state Blue Sky laws.

Greenway is not named in the complaint because the Securities and Exchange Commission (SEC) revoked its securities industry registration on June 19, 1998. The complaint does not allege any wrongdoing on the part of the issuers.

Previously, seven other Greenway brokers were barred from the securities industry and agreed to pay a total of \$1.2 million in fines as a result of NASD Regulation's investigation. Three of the seven – Jack Basile, Joseph Lanni, and Giuseppe Temperino – also consented to findings that they arranged for impostors to take their Series 7 qualification exams. The remaining four were: Rocco Basile, Peter DelBalso, Giuseppe Bonetti, and Salvatore Panetta.

The Greenway complaint was issued by NASD Regulation's District 10 Office in New York.

Kensington Wells, Inc.

In a separate complaint, NASD Regulation charged 12 former brokers of the now defunct Long Island brokerage firm Kensington Wells, Inc. with a wide range of sales practice abuses. The complaint alleges that the 12 brokers, who were based at Kensington Wells' Mineola, NY headquarters, participated in or facilitated a boiler room operation through a series of fraudulent sales practices and other misconduct from April 1994 through October 1996.

Named in the complaint are: Joel Grant, Steven Orandello, James McInerney, Steven Stecklow, Victor Difrisco, Steven Jaross, Edwin Lawrence, Kevin Loomis, Edward Stock, Craig Redding, Gary Redding, and Michael Newman.

According to the complaint, the sales practice violations occurred in connection with Kensington Wells' underwriting of the IPOs of Xchem International, Inc.; Universal Automotive Inc.; and VideoLan Technologies, Inc. The brokers are alleged to have engaged in unauthorized trading; baseless or improper price predictions; making

improper comparisons to other stocks; tying the purchase of IPOs to a commitment to buy stock in the aftermarket; guaranteeing customers against loss; promising to make up losses with new trades; and refusing to execute or aggressively discouraging orders to sell stocks, immediately before and after the IPOs.

At least 60 investors were victimized through fraudulent practices, the complaint said.

Both complaints demand that the respondents forfeit the profits that

were illegally obtained and make restitution to defrauded investors. The complaint does not allege any wrongdoing on the part of the issuers.

The 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 this complaint is unadjudicated, you may wish to contact the respondents before drawing any conclusion

regarding the allegations in the complaint.

Under NASD rules, the individuals and the firms named in the complaint can file a response and request a hearing before an NASD Regulation disciplinary panel. Possible sanctions include a fine, suspension, bar, or expulsion from the NASD.

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