

Disciplinary Actions

Disciplinary Actions Reported For September

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, September 21, 1998. The information relating to matters contained in this *Notice* is current as of the end of August 24.

Firm Expelled

Stratton Oakmont, Inc. (Lake Success, New York) submitted an Offer of Settlement pursuant to which the firm was expelled from NASD membership. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it arranged sales of large quantities of securities in initial public offerings (IPOs) with pre-arrangement that the purchasers of the securities would sell or "flip" the securities back to the firm at a predetermined price in the immediate aftermarket. The findings also stated that the firm bid for or purchased securities for its own account prior to its completion of a public distribution and pre-sold securities in the aftermarket prior to the close of certain offerings. Furthermore, the NASD determined that the firm required customers to buy securities in the aftermarket as a condition of obtaining securities in IPOs, manipulated the price of a security, and charged excessive markups. Moreover, the firm violated the NASD's Free-Riding and Withholding Interpretation and failed to supervise its trading activities.

Firm Fined, Individual Sanctioned

Investors Associates, Inc. (Hackensack, New Jersey) and **Herman Epstein (Registered Principal, Franklin Lakes, New Jersey)** submitted an Offer of Settlement pursuant to which they were censured and fined \$20,000, jointly and severally, and Epstein was suspended from association with any NASD member as a general securities principal for six months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Epstein, failed to file customer complaint statistics and failed to establish written procedures to supervise the activities of its associated persons reasonably designed to achieve compliance with the NASD reporting requirements.

Firms and Individuals Fined

Atlanta-One, Inc. n/k/a K. Michael & Company (Irvine, California), Kevin Michael McCarthy (Registered Principal, Irvine, California), and Thomas William Blodgett (Registered Principal, Irvine, California). The firm was fined \$25,000 and ordered to reimburse customers for commissions charged in excess of eight percent on a principal amount in excess of \$500 for restitutions totaling \$291,546.02. In addition, the firm was ordered to reimburse a customer for a commission in excess of 20 percent on a principal amount less than \$500. McCarthy was censured and fined \$10,000, and Blodgett was censured and fined \$10,000. The Los Angeles District Business Conduct Committee (DBCC) imposed the sanctions following a remand of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that the firm, acting through McCarthy and Blodgett, charged public customers excessive and

unfair commissions on transactions in foreign currency options.

Mischler Financial Group, Inc. (Corona Del Mar, California) and **Walter Michael Mischler (Registered Principal, Huntington Beach, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$12,500, jointly and severally, with two other individuals. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Mischler, participated in a private placement contingency offering and failed to forward investor funds to a properly established bank escrow account. Instead, these funds were deposited into a bank account maintained by a non-bank agent and commingled with other funds entrusted to the agent until the contingency was met. The findings also stated that the firm, acting under the direction and control of Mischler, failed to have and maintain sufficient minimum net capital in contravention of the Securities and Exchange Commission (SEC) Rule 15c3-1.

Firms Fined

Bear, Stearns & Company, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured, fined \$33,500, and required to pay restitution and interest totaling \$1,084 to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to Automated Confirmation Transaction Service (ACT) in violation of applicable securities laws and regulations regarding trade reporting and customer limit orders. Furthermore, the NASD determined that the firm failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to

achieve compliance with the applicable securities laws and regulations regarding trade reporting, best execution, the Limit Order Protection Interpretation, firm quote obligations, and the reporting of options positions to the NASD.

CFS Brokerage Corporation (Minnetonka, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$69,622. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted individuals to conduct a securities business and to act in a registered capacity when each individual's registration had lapsed for non-compliance with the Regulatory Element of the Continuing Education requirements.

Herzog, Heine, Geduld, Inc. (Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$10,000. The firm must also undertake to revise its written supervisory procedures relating to firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders and thereby failed to honor its published quotation.

Johnson Rice & Company, L.L.C. (New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$10,000. The firm also consented to a compliance conference. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws and regulations,

and with NASD rules concerning front running. The findings also stated that the firm failed to enforce its written supervisory procedures concerning transactions for or by associated persons that required an associated person to obtain prior written approval of the manager before purchasing or selling any securities for his or her account.

Mayer & Schweitzer, 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 failed to execute orders and thereby failed to honor its published quotation.

M. H. Meyerson & Co., Inc. (Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders and thereby failed 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's Firm Quote Rule and other related rules of the NASD.

Piper Jaffray, Inc. (Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders and thereby failed 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's Firm Quote Rule and other related rules.

Robertson, Stephens & Company (San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders and thereby failed 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's Firm Quote Rule and other related rules.

Individuals Barred or Suspended

Robert C. Abrahamson, Jr. (Registered Representative, Hicksville, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$42,775, suspended from association with any NASD member in any capacity for 80 business days, and required to pay \$46,646 in restitution to public customers. Without admitting or denying the allegations, Abrahamson consented to the described sanctions and to the entry of findings that he made material misrepresentations and omissions to public customers in connection with the purchase of stock and executed unauthorized transactions in a customer's account. The findings also stated that Abrahamson failed to execute a sell order or failed to execute it in a timely manner, made fraudulent and/or negligent price pro-

jections to customers, and made unsuitable recommendations to a public customer.

James A. Bahl (Registered Representative, Moline, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$12,646, barred from association with any NASD member in any capacity, and ordered to pay \$2,529.22 in restitution to customers. Without admitting or denying the allegations, Bahl consented to the described sanctions and to the entry of findings that he took cash payments for insurance from public customers and used the proceeds for some purpose other than for the benefit of the customers, without their knowledge or consent. Furthermore, the NASD found that Bahl then made the payments those customers intended be made with the cash payments from checks he received from other customers who had given him the checks to make insurance premium payments and to pay back a loan they had taken on one of their insurance policies. The NASD determined that Bahl took a total of \$2,529.22 from these customers' checks in this manner without their knowledge or consent.

Donald James Blumer (Registered Representative, Sioux Falls, South Dakota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$49,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Blumer consented to the described sanctions and to the entry of findings that he deposited a \$9,800 check from public customers into a bank account he controlled, and converted the funds to his own use and benefit without the knowledge or consent of the customers.

Scott David Bobrow (Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, Bobrow consented to the described sanctions and to the entry of findings that, in order to reach his sales quota, Bobrow altered the records of public customers, enrolled them in a financial planning service program, and changed their mailing addresses in order to conceal the charges to be assessed against their accounts, all without the customers' knowledge or authorization.

Bobrow's suspension commenced with the opening of business on August 12, 1998, and concludes at the close of business September 25, 1998.

Thomas Franklin Bridgman (Registered Representative, Staten Island, New York) submitted an Offer of Settlement pursuant to which he was censured, suspended from association with any NASD member in any capacity for eight months, and required to undertake a three-year period of enhanced supervision upon completion of the suspension. Without admitting or denying the allegations, Bridgman consented to the described sanctions and to the entry of findings that, in an effort to conceal a net short position he incurred in his member firm's proprietary account, he entered a fictitious buy order for treasury notes in his firm's computerized trading blotter. In an effort to conceal unrealized trading losses he incurred from the previous day's trading activities, he entered fictitious profitable trades on his firm's books and records to offset the losses.

Bridgman's suspension commenced with the opening of business on

September 1, 1997, and concluded at the close of business April 30, 1998, and is deemed served.

Lawrence Paul Bruno, Jr. (Registered Representative, Brooklyn, New York) was censured, fined \$25,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$678,067 in commissions. The NAC affirmed the sanctions following appeal of a New York DBCC decision. The sanctions were based on findings that Bruno arranged to have an impostor take the Series 7 exam on his behalf.

Santino A. Carnemolla (Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$51,400, barred from association with any NASD member in any capacity, and ordered to pay \$13,471.89 in restitution to customers. Without admitting or denying the allegations, Carnemolla consented to the described sanctions and to the entry of findings that he executed securities transactions in the accounts of public customers without the knowledge, consent, or authorization of the customers. The findings also stated that Carnemolla failed to respond to NASD requests for information.

Jeffrey Elmer Clark (Registered Representative, Mesa, Arizona) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for 15 days, ordered to disgorge \$2,500 in commissions, and required to requalify by exam as a registered representative. Without admitting or denying the allegations, Clark consented to the described sanctions and to the entry of findings that he entered inaccurate informa-

tion concerning the financial circumstances of purchasers in a private placement offering thereby causing his member firm's records to be inaccurate. Moreover, the NASD determined that Clark negligently made certain representations regarding the merits and potential appreciation of the debt securities being offered that were inaccurate and misleading, omitted to disclose certain information that was material to the decision to invest in these securities, and did not provide a private placement memorandum to unaccredited investors in advance of their purchases. In addition, Clark effected the purchase of bonds in a customer account without the customer's prior authorization and consent.

Guy Weiland Courtney (Registered Principal, Barrington, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Courtney consented to the described sanctions and to the entry of findings that he failed to respond fully to NASD requests for information.

Charles G. Cowden (Registered Principal, Sanford, Florida) was censured, fined \$10,000, suspended from association with any NASD member in any capacity for 90 days, and required to requalify by exam before acting in any capacity requiring registration. The sanctions were based on findings that Cowden participated in private securities transactions with investors without giving prior written notice to or receiving written approval from his member firm of his proposed participation in said transactions.

Daniel Frederick Cox (Registered Representative, Burlington, Iowa) 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, Cox consented to the described sanctions and to the entry of findings that he received a blank check in the amount of \$2,000 from a public customer and blank money orders totaling \$2,000 from another customer intended for deposit into each of the customer's money market accounts. Instead, Cox cashed the checks and money orders, and converted the funds to his own use and benefit, without the customers' knowledge or consent.

Paul Joseph Digangi (Registered Representative, Cheshire, Connecticut) 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, Digangi consented to the described sanctions and to the entry of findings that he misappropriated to his own use and benefit a total of \$7,850 from a public customer in connection with a life insurance policy and a variable investment plan. In connection with the misappropriations, Digangi forged the signature of the customer on checks, a disbursement request, and fund withdrawal forms.

Jeffrey Lynn Elliott (Registered Representative, Jacksonville, Florida) was censured, fined \$7,500, suspended from association with any NASD member in any capacity for two years, and ordered to requalify before again associating with a member of the NASD. The sanctions were based on findings that Elliott obtained \$452.60 from a public customer intended as insurance policy premium payments and failed to process them through his office where they could have been tracked.

Instead, Elliott mishandled the funds and took no steps to ensure that they were applied as requested. The findings also stated that Elliott failed to respond to NASD requests for information in a timely manner.

James Patrick Felton, Jr. (Registered Representative, Random Lake, Wisconsin) was censured, fined \$40,000, and barred from association with any NASD member in any capacity. The sanctions were based on finding that Felton failed to respond to NASD requests for information.

Adam Craig Friedland (Registered Principal, Woodbury, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Friedland consented to the described sanctions and to the entry of findings that he induced a public customer to purchase a speculative security by extolling the merits and potential investment performance of the security without discussing the risks and predicting that the market price of the security would experience a substantial increase in value within a specific period of time without an adequate or reasonable basis in fact. Friedland also aggressively discouraged a customer's unsolicited sell order without a reasonable basis for doing so and without regard to the best interests of the customer, thereby causing the customer to incur additional monetary losses. In addition, the findings stated that Friedland predicted that the market price of a speculative security would experience a substantial price increase without having an adequate, accurate, or reasonable basis for such prediction.

Russell D. Goldner (Registered Representative, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$5,633.16, suspended from association with any NASD member in any capacity for two weeks, and required to requalify as a general securities representative by taking the Series 7 exam. If Goldner fails to complete and pass the exam, he shall be suspended from acting in any capacity until such time as he does complete and pass the exam. Without admitting or denying the allegations, Goldner consented to the described sanctions and to the entry of findings that he induced a public customer to purchase securities by misrepresenting to the customer that he possessed insider information. The findings also stated that Goldner provided a public customer with sales materials marked "for internal use only" without obtaining prior approval to distribute the materials from his member firm.

Richard Timothy Greene (Registered Representative, Pittsboro, North Carolina) was censured, fined \$10,000, and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following its call for review of an Atlanta DBCC decision. The sanctions were based on findings that Greene forged the signature of a public customer on annuity-related documents.

Kevin Joseph Guarino (Registered Representative, Garden City, 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 Guarino failed to respond to NASD requests to appear for an on-the-record interview.

Michael Andrew Harrington (Registered Representative, Brooklyn, 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 one year. Without admitting or denying the allegations, Harrington consented to the described sanctions and to the entry of findings that he failed to appear for testimony before the NASD.

Gary John Kircher (Registered Representative, Dallas, Texas) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, and suspended from association with any NASD member in any capacity for 18 months. Without admitting or denying the allegations, Kircher consented to the described sanctions and to the entry of findings that he exercised discretion to effect transactions in the accounts of public customers without obtaining prior written authorization from the customers. The findings also stated that Kircher recommended and effected unsuitable option transactions for a customer and made false and misleading statements to customers in connection with index option transactions.

Duane Joseph Koerner (Registered Representative, Denver, Colorado) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,600, suspended from association with any NASD member in any capacity for 15 business days, and required to pay \$1,150 in restitution to a public customer. Without admitting or denying the allegations, Koerner consented to the described sanctions and to the entry of findings that he entered orders to effect securities transactions in the account of a public customer without the customer's prior authorization. The findings also stated that Koerner made false and misleading statements to a customer.

that were related to the status of the customer's account.

Ernest O. Kraemer, Jr. (Registered Representative, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Kraemer consented to the described sanctions and to the entry of findings that he recommended and engaged in a strategy of trading options and the purchase of a commodities pool limited partnership in the joint accounts of public customers, when he did not have reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customers on the basis of their age, financial situation, investment objectives, and needs. The findings also stated that Kraemer provided inaccurate information regarding the investment experience of public customers on the new account documents and options agreements relating to their joint account held at his member firm.

Emmanuel Alexander Lagpacan (Registered Representative, Lafayette, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$350,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lagpacan consented to the described sanctions and to the entry of findings that he engaged in fraudulent acts, practices, or courses of business by which he solicited public customers to invest funds totaling \$254,310.79 in securities offered in a firm he held out to be his own advisory business. According to the findings, while representing to the customers that they were investing in mutual funds, annuities, government securities, and other low risk securi-

ties, Lagpacan actually used their funds to purchase real estate in the name of a corporation he controlled and to pay the corporation's expenses. The findings also stated that Lagpacan sold for \$40,000 to a public customer fictitious certificates of deposit purportedly issued by a firm and misappropriated the proceeds to other uses. Lagpacan also failed to respond to NASD requests for information.

Edward Bartlett Leach (Registered Representative, Austin, Texas) 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, Leach consented to the described sanctions and to the entry of findings that he recommended and effected the purchase and sale of stock options for the accounts of public customers without having a reasonable basis for believing that the recommendations were suitable for the customers based upon the facts known to him concerning the nature of the securities purchases for the customers' accounts, their investment objectives, financial situation and needs.

Robert Lee Lent (Registered Representative, Brownsville, Pennsylvania) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Lent failed to respond to NASD requests for information.

Anthony Littles (Registered Representative, Sanford, Florida) was censured, fined \$40,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Littles failed to respond to NASD requests for information.

Michael Joseph Markowski (Registered Principal, Miami Beach, Florida) and **Joseph F. Riccio (Registered Representative, Palm Harbor, Florida)**. Markowski was censured, fined \$300,000, and barred from association with any NASD member in any capacity, and Riccio was censured, fined \$250,000, and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Market Regulation Committee decision. The sanctions were based on findings that Markowski and Riccio effected numerous transactions in an underwritten security and induced others to purchase and sell such securities at artificial prices by means of manipulative, deceptive, and other fraudulent devices and contrivances. In addition, the respondents published quoted prices for the security which they knew or should have known were not bona fide and were published for manipulative, deceptive, and fraudulent purposes. Furthermore, Markowski was responsible for not taking appropriate action to address his member firm's violations of certain terms in its restriction agreement with the NASD and failed to respond timely to NASD requests to appear for an on-the-record interview.

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

John M. Martello (Registered Representative, Staten Island, 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 Martello executed an unauthorized transaction in the account of a public customer. Martello then made threats and misrepresentations to the customer to force the customer to

agree to and to pay for a trade he did not want. Martello also failed to respond to NASD requests to appear for an on-the-record interview.

Frank Rocky Mazzei (Registered Representative, Oceanport, New Jersey) was censured, fined \$24,087, suspended from association with any NASD member in any capacity for two to six months, ordered to pay \$41,974.89, plus interest in restitution to a public customer, and required to requalify by exam before acting in any capacity that requires qualification. If Mazzei pays the full amount of restitution to the customer within the first two months of his suspension then his six-month suspension will be deemed to be satisfied. However, if he fails to make full restitution within this two-month period, then he must serve the complete six-month suspension. The sanctions were based on findings that Mazzei made unsuitable recommendations to a public customer without having a reasonable basis to believe that his recommendations were suitable for the customer in light of the customer's age, financial situation and needs, and stated investment objectives. Mazzei also churned the customer's account by engaging in excessive trading for the purpose of generating commissions and in disregard of the customer's interest. In addition, Mazzei made misrepresentations and omissions as to the nature and meaning of an activity letter sent to the customer by Mazzei's member firm, induced the customer to sign it, and never informed the customer of the losses sustained in his account.

Garey Neil Mitchell (Registered Representative, Sturgis, Kentucky) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$125,000, barred from association with any NASD member in any capacity, and required to pay full

restitution to the appropriate parties. Without admitting or denying the allegations, Mitchell consented to the described sanctions and to the entry of findings that he received checks totaling \$14,150 from public customers for the purpose of investing in securities, failed and neglected to purchase the securities, and instead, converted the funds to his own use and benefit by endorsing the checks and either depositing them into his personal bank account or cashing them, without the customers' knowledge or consent. The findings also stated that Mitchell settled a customer complaint away from his member firm by executing a promissory note in favor of a public customer to settle a dispute regarding monies converted from the customer. Furthermore, the NASD determined that Mitchell received \$3,000 cash from a public customer intended for investment purposes and failed to apply the funds as directed by such customer. Moreover, Mitchell received a \$13,000 check from a public customer for investment purposes, failed to execute the purchase of securities on the customer's behalf, and instead, misused the funds by depositing the funds into the account of other public customers. Mitchell also failed to fully and completely respond to NASD requests for information.

Steven J. Napoli (Registered Representative, Belle Mead, New Jersey) 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, Napoli consented to the described sanctions and to the entry of findings that he received \$10,000 in cash from a public customer intended for paying premiums on an individual variable life insurance policy. The NASD determined that Napoli remitted \$7,300 of the funds, commingled the remaining

\$2,700 received from the customer with his personal funds, and converted the funds to his own use and benefit without the customer's knowledge, authorization, or consent. Napoli also failed to respond to NASD requests for information.

Gary Lee Niebling (Registered Representative, Florissant, Missouri) 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, Niebling consented to the described sanctions and to the entry of findings that he effected withdrawals from annuities for a public customer totaling \$96,518.06 without the knowledge or consent of the customer and deposited all withdrawn funds into financial accounts under his control and converted the funds to his own use and benefit.

Barrington Lloyd Nugent (Registered Representative, Houston, Texas) was censured, fined \$60,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Nugent made improper use of a customer's funds by receiving a \$4,310 check from a public customer intended for the purchase of stock. Contrary to representations he made to the customer, Nugent caused the customer to write a check made payable to him for the purchase, subsequently endorsed and cashed the check, and failed to purchase the stock. Nugent also failed to respond to NASD requests for information.

David M. Pessa (Registered Representative, Brooklyn, New York) 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 disgorge

\$919,459.10 in commissions. Without admitting or denying the allegations, Pesso consented to the described sanctions and to the entry of findings that he caused units of stock to be purchased in the account of a public customer without the customer's knowledge, authorization, or consent. The findings also stated that Pesso arranged to have an impostor take the Series 7 exam on his behalf and failed to respond to NASD requests for information and to appear for an on-the-record interview.

Thomas Petropoulos (Registered Principal, Forest Hills, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$58,650, suspended from association with any NASD member in any capacity for 12 months, and required to pay \$44,150 in restitution to customers. Without admitting or denying the allegations, Petropoulos consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in the accounts of public customers and failed to follow a customer's order to sell securities. The findings also stated that Petropoulos made material misrepresentations and omitted to disclose material information concerning securities purchased by a customer on his recommendation. Petropoulos also predicted the future price of a security to customers without a basis for such prediction.

Francisco A. Pimentel (Registered Representative, Brentwood, New York) was censured, fined \$100,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Pimentel made material misrepresentations and fraudulent price predictions in an attempt to induce a customer to purchase warrants. Pimentel also failed to provide truthful testimony to the NASD during an on-the-record interview.

Darryl W. Platt (Registered Principal, Biloxi, Mississippi) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$350,000, barred from association with any NASD member in any capacity, and ordered to pay restitution to the appropriate parties. Without admitting or denying the allegations, Platt consented to the described sanctions and to the entry of findings that he received \$23,000 in funds from public customers for the purpose of investing in securities and mutual funds, failed to execute the purchases 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 Platt issued checks to himself in the total amount of \$18,700 out of the checking account of a public customer and cashed these checks by forging the customer's endorsement, thereby converting the \$18,700 to his own use and benefit without the customer's knowledge or consent. Furthermore, the NASD determined that Platt received \$9,989.99 in the form of a loan proceeds check made payable to a public customer, forged the customer's endorsement and converted the funds to his own use and benefit by placing the funds in an account that he controlled, without the customer's knowledge or consent.

Daniel Mark Porush (Registered Principal, Oyster Bay Cove, New York), Paul Joseph Greco (Registered Representative, Syosset, New York), Frank Riccuiti, Jr. (Registered Representative, Long Beach, New York), and Clifford Bryan Olshaker (Registered Representative, Brooklyn, New York) submitted Offers of Settlement pursuant to which Porush was censured, fined \$500,000, and barred from association with any NASD member in any capacity. Greco was

censured, fined \$20,000, suspended from association with any NASD member in any capacity for two years, and required to requalify by exam prior to becoming associated with any member firm. Riccuiti was censured, fined \$20,000, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by taking the Series 7 exam before again acting in that capacity, and Olshaker was censured, fined \$2,500, suspended from association with any NASD member in any capacity for two months, and required to requalify by exam prior to becoming associated with any member firm. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Porush failed to exercise his supervisory responsibilities by allowing registered representatives under his supervision to engage in widespread fraudulent sales practices and other egregious misconduct. The findings also stated that Greco and Riccuiti, engaged in baseless and improper price predictions as to speculative securities and engaged in unauthorized trading in customer accounts. Riccuiti made false promises to limit customers' losses, made a misrepresentation as to a specific issuer, and mislead customers as to the risk of investing in specific securities. Also, the NASD determined that Greco required at least one customer to purchase aftermarket stock in order to receive units in an IPO, and induced a customer to purchase a security by promising that it would make up for prior losses. The NASD also found that Olshaker created sales scripts for use by his firm's retail sales force that were not fair, complete, and balanced presentations because they included only positive information about the issuers and securities and failed to present any risk factors or negative information.

Glen McKinley Richars, III (Registered Representative, Delray Beach, Florida) was censured, fined \$1,500, and suspended from association with any NASD member in any capacity for five business days. The NAC affirmed the sanctions following its call for review of a San Francisco DBCC decision. The sanctions were based on findings that Richars failed to pay a \$5,500 arbitration award in a timely manner.

Bryant W. Robertson (Registered Representative, Littleton, Colorado) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Robertson failed to respond to NASD requests to provide testimony in connection with an investigation regarding his conduct while he was associated with NASD member firms.

Jim Richard Rogers (Registered Principal, Gilbert, Arizona) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for 60 days and ordered to requalify by exam in any capacity for which registration is required before functioning in such capacity in the future. Without admitting or denying the allegations, Rogers consented to the described sanctions and to the entry of findings that he recommended and effected transactions in accounts of public customers that were excessive in size and number. The findings also stated that Rogers made recommendations, on margin, to customers that were unsuitable because the security was unduly speculative, the accounts were unduly concentrated in a speculative security after the transactions and the use of margin exposed the customers to excessive risk of loss.

John Gregory Schaefer, Jr. (Registered Principal, Fountain Hills, Arizona) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for three months, and ordered to disgorge \$2,400 in commissions. Without admitting or denying the allegations, Schaefer consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and outside business activities without giving prior written notification to his member firm.

Randall J. Schultz (Registered Principal, Lowell, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$475,000, barred from association with any NASD member in any capacity, and required to pay \$95,000 in restitution to a member firm. Without admitting or denying the allegations, Schultz consented to the described sanctions and to the entry of findings that he obtained a total of \$95,000 from public customers by making representations about the use of the funds, failed to follow said representations, and used the funds for a corporation that he owned or for some purposes other than for the benefit of the customers.

Richard Vandervoort Singer, II (Registered Principal, Roslyn, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$20,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Singer consented to the described sanctions and to the entry of findings that he executed the purchases of warrants and shares of preferred stock in the account of a public customer without the customer's knowledge, authorization, or consent. Singer also

failed to appear for an on-the-record interview.

Kimberly Ann Souza (Registered Representative, Malakoff, Texas) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Souza failed to respond to NASD requests for information.

Robert Louis Stevens (Registered Principal, Denver, Colorado) was censured, fined \$25,565, suspended from association with any NASD member in any capacity for 60 business days, and ordered to pay \$12,308 plus interest in restitution to a public customer. The NAC affirmed the sanction following its call for review of a Denver DBCC decision. The sanctions were based on findings that Stevens recommended to public customers the purchase of securities that were unsuitable for the customers. Stevens also prepared and submitted to his member firm a new account card for the trust account in which certain information concerning the customer was stated inaccurately causing his member firm's books and records to be inaccurate with respect to this account.

Brian Thomas Stone (Registered Representative, Bedford, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$5,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stone consented to the described sanctions and to the entry of findings that he made entries to the general ledger of his member firm totaling \$750 when he had no basis for making these entries in order to effect the transfer of these funds to a public customer's account. According to the findings, Stone effected these transfers to pay a personal debt he owed to the customer.

James P. Tarone (Registered Representative, Whitehall, Pennsylvania) was censured, fined \$30,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Tarone failed to respond to NASD requests for information.

Deanna Lee Williams (Registered Representative, North Wales, Pennsylvania) 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, Williams consented to the described sanctions and to the entry of findings that she impersonated another individual and took the Pennsylvania Life Insurance Agent Exam for her. The findings also stated that Williams failed to timely respond to NASD requests for information.

Bobby J. Withrow (Registered Representative, Livermore, Kentucky) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$300,000, barred from association with any NASD member in any capacity, and required to pay \$60,000 in restitution. Without admitting or denying the allegations, Withrow consented to the described sanctions and to the entry of findings that he received approximately \$60,000 from public customers for the purpose of investment in a business venture, failed and neglected to properly account for these funds, and converted at least a portion of the funds by endorsing checks and depositing them into his personal checking account, without the individuals' knowledge or consent. The findings also stated that Withrow made a recommendation to a public customer that the customer liquidate a variable annuity and invest the proceeds in a business venture without

having reasonable grounds for believing that the recommendations and transactions were suitable for the customer on the basis of her financial situation, investment objectives, and needs. Furthermore, Withrow engaged in outside business activities while employed by a member firm without prior written notice to his member firm.

Aaron Jones Yorke, IV (Registered Principal, New York, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$30,000, and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Yorke consented to the described sanctions and to the entry of findings that he terminated without justification an IPO after five days of after-market trading on the Nasdaq SmallCapSM Market.

Yorke's suspension commenced with the opening of business on August 10, 1998, and will conclude at the close of business October 8, 1998.

Individuals Fined

Donald James Jackson (Registered Principal, New York, New York) and **George Peter Lucaci (Registered Principal, Summit, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$101,775, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a former member firm, acting through Jackson and Lucaci, solicited and sold interests in a contingency offering before the firm was registered with the NASD. The findings also stated that Jackson and Lucaci received investor funds in connection with the offering and failed to forward the funds to a properly established

bank escrow account during the contingency period, and held the funds on the firm's premises even after the contingency was met.

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 August 14, 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 *Notice to Members*.

Maximo Justo Guevara (Registered Representative, Philadelphia, Pennsylvania) was censured, fined \$33,992, barred from association with any NASD member in any capacity, and ordered to pay restitution of \$78,000, plus interest. The sanctions were based on findings that Guevara recommended the purchase of securities when he had no reasonable basis to believe that such recommendations were suitable for the customers based upon the information disclosed to him by the customers about their personal situations, financial circumstances, investment objectives, and other matters. Guevara also participated in private securities transactions without providing his member firm prompt written notice of his participation in such activities.

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

Robin Bruce McNabb (Registered Principal, San Jose, California) was censured, fined \$100,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings

that McNabb participated in private securities transactions without giving prior written notification to his member firm. McNabb also recommended to public customers the purchase of securities without having reasonable grounds for believing that such recommendations were suitable in light of the facts disclosed by the customers as to their other security holdings and as to their financial situation and needs.

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

Kevin Lee Otto (Registered Representative, Milwaukee, Wisconsin)

was censured, fined \$110,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Otto received \$22,000 from a public customer for investment purposes and, without the customer's knowledge or consent, invested the funds in corporations or business entities which Otto operated and/or controlled and deposited the funds in a bank account or bank accounts which he controlled or had an interest, and used the funds for some purpose other than for the benefit of the customer until he returned the customer's funds at a later date.

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

William Francis Palla (Registered Principal, Haverford, Pennsylvania) was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that he failed to respond to NASD requests for information.

Palla 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.

Michael William Adams (Registered Representative, Rowland Heights, California)

was named as a respondent in an NASD complaint alleging that he recommended purchase and sales transactions to public customers without having reasonable grounds for believing they were suitable for the customers and accounts in view of the size, frequency, and nature of the recommended transactions and the facts disclosed by the customers as to their financial situation, objectives, circumstances, and needs. The complaint also alleges that Adams induced these purchase and sales transactions by means of manipulative, deceptive, or other fraudulent devices or contrivances.

Percy Barr (Registered Representative, Greenwood, Mississippi)

was named as a respondent in an NASD complaint alleging that he received checks totaling \$49,700 from public customers for the purchase of, and as payment on, annuities and mutual funds. The complaint alleges that Barr failed 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 cus-

tomers' knowledge or consent. The complaint also alleges that Barr failed to respond and to timely respond to NASD requests for information.

J. Barrett Bryant (Registered Representative, Collierville, Tennessee)

was named as a respondent in an NASD complaint alleging that he received cash in the amount of \$1,000 from a public customer for the purpose of investing in the customer's variable universal life policy account, failed, and neglected to invest the funds in the account and, instead, retained possession of the funds until a later date, without the customer's knowledge or consent. The complaint also alleges that Bryant sent correspondence to the customer that was misleading in that it overstated the funds maintained by the customer in the variable universal life insurance account.

Eugene Joseph Cordano (Registered Principal, Brooklyn, New York)

was named as a respondent in an NASD complaint alleging that he executed transactions in the accounts of public customers without the customers' prior knowledge, authorization or consent. The complaint also alleges that Cordano provided false information to the NASD during the course of its investigation.

Robert Lee Davis, Jr. (Registered Representative, Sacramento, California)

was named as a respondent in an NASD complaint alleging that he received \$8,500 from a public customer to purchase real property for investment purposes, failed to place the funds in an escrow account, did not use the funds to purchase real property, and did not return the funds to the customer. The complaint alleges that Davis used the \$8,500 to pay his business and personal living expenses without the knowledge or consent of the customer. The complaint also alleges

that Davis failed to respond to NASD requests for information.

John Philip DiGiacomo (Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he created and submitted fictitious buy order tickets in an effort to conceal substantial net short positions in his trading account as a proprietary trader for his member firm.

Peter Lawrence Greenberg (Registered Representative, Princeton, New Jersey) was named as a respondent in an NASD complaint alleging that he executed securities transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Greenberg failed to respond to NASD requests for information.

Michael Wayne Hawkins (Registered Representative, Atlanta, Georgia) was named as a respondent in an NASD complaint alleging that he executed written guarantees that he would indemnify and reimburse a public customer for any losses sustained on investments, plus interest, should losses occur in order to induce the customer to make those purchases. The complaint also alleges that the aforementioned investments were made outside of the regular course or scope of Hawkins' employment with his member firm and that he failed to provide the firm with written notice of these private securities transactions or to obtain approval from the firm, while receiving compensation for his involvement in these private securities transactions.

Edward A. McGilly, Jr. (Registered Principal, Saint James, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omitted to disclose material

information concerning solicitations and recommendations to purchase securities made to public customers. The complaint alleges that McGilly projected the future price of securities to public customers without a reasonable basis for these representations. The complaint also alleges that McGilly effected transactions in the accounts of public customers, without the prior authorization and consent of the customers.

Timothy E. McKeon (Registered Principal, Holbrook, 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 them to purchase securities. The complaint alleges that McKeon made fraudulent price predictions to public customers in connection with his recommendations to purchase securities. The complaint also alleges that McKeon effected transactions in a public customer's account without the prior authorization of the customer. The complaint alleges that McKeon also failed to follow customer instructions to sell all the positions in the customer's account, send him the proceeds, and close the account.

Russell Wayne Millard (Registered Representative, Hemet, California) and **Gregory G. Livingston (Registered Representative, Laguna Hills, California)** were named as respondents in an NASD complaint alleging that they offered and sold investments in contingent offerings to public customers and failed to deposit and retain customer funds in separate escrow accounts until the minimum number of units had been sold. The complaint alleges that Millard and Livingston intentionally transmitted the funds directly to bank accounts and commingled with funds from other sources before the minimum number of units had been sold,

with such funds used to cover, among other things, operating costs of the affiliates and interest payments to investors of other private placements.

Jeffrey M. Schuler (Registered Principal, Delray Beach, Florida) was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to public customers, based on the facts the customers disclosed as to their tax status, investment objective, and financial situation and needs.

Luis Rafael Torres (Registered Representative, Miami, Florida) was named as a respondent in an NASD complaint alleging that he made false representations to public customers concerning investment opportunities that, in fact, did not exist. The complaint alleges that Torres received \$63,450 from the customers for investment purposes, failed to invest these funds, and converted the customers' funds to his own use. The complaint also alleges that Torres failed to respond to NASD requests for information.

Firms Expelled For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations
Global Equities Group, Inc., New York, New York (August 5, 1998)

Greenway Capital Corp. n/k/a Cortlandt Capital Corp., New York, New York (August 5, 1998)

Landmark International Equities, Inc., Syosset, New York (July 31, 1998)

Meyers Pollock Robbins, Inc., New York, New York (August 5, 1998)

Murphey, Marseilles, Smith & Nammack, Inc., New York, New York (August 5, 1998)

Rickel & Associates, Inc., New York, New York (July 31, 1998)

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

Cortlandt Capital Corp. f/k/a Greenway Capital Corp., New York, New York (July 21, 1998)

Investors Associates, Inc., Hackensack, New Jersey (July 21, 1998)

Sterling Foster & Company, Inc., Uniondale, New York (July 21, 1998)

Taj Global Equities, Inc., Tampa, Florida (August 10, 1998)

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

Baginski, Brian E., Boca Raton, Florida (August 5, 1998)

Baquero, Jr., Jairo A., Staten Island, New York (August 5, 1998)

Basani, Vijay R., Nashua, New Hampshire (August 5, 1998)

Bruzzese, John, Manalapan, New Jersey (August 5, 1998)

Calkins, Jr., Timothy R., Tobyhanna, Pennsylvania (August 5, 1998)

Curry, Jr., Patrick E., Staten Island, New York (August 5, 1998)

Daniels, Paul A., Las Cruces, New Mexico (August 5, 1998)

DeCola, Frank, J., Brooklyn, New York (August 5, 1998)

Delliquanti, James L., Laguna Hills, California (August 5, 1998)

DeLuca, Glen E., Staten Island, New York (August 5, 1998)

DiMarco, Jr., Robert B., Boca Raton, Florida (August 5, 1998)

Dorsi, Gary J., Marlboro, New Jersey (August 5, 1998)

Epstein, Herman, Franklin Lakes, New Jersey (August 5, 1998)

Flanagan, Sean T., Bellaire, Ohio (August 5, 1998)

Fulcher, Richard J., Moseley, Virginia (August 5, 1998)

Gosney, Tarlton S., Ridgefield, Washington (August 5, 1998)

Green, James L., Oldsmar, Florida (August 5, 1998)

Hadaway, Stephen C., South Lake Tahoe, California (August 5, 1998)

Jacobs, Thomas, Dyer, Indiana (August 5, 1998)

MacRunnels, James A., Elburn, Illinois (August 5, 1998)

Padulo, Jr., Vincent A., New York, New York (August 5, 1998)

Perkins, Thomas J., Union City, California (August 5, 1998)

Ruffler, Keith P., Spotswood, New Jersey (August 5, 1998)

Russo, Janice D., Van Nuys, California (August 5, 1998)

Schaler, Joseph S., Lafayette, Indiana (August 5, 1998)

Tuzzolino, Jr., Fred J., Brooklyn, New York (August 5, 1998)

Vogel, Paul L., Suwanee, Georgia (August 5, 1998)

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

Aiello, Andrew S., Saratoga Springs, New York (August 13, 1998)

Denton, Donald Jay, Columbus, Ohio (August 13, 1998)

Guchone, John Victor, Rochester, New York (July 21, 1998)

Jurdine, Wilber C., Tampa, Florida (August 10, 1998)

Lieberman, Adam Richard, Roslyn Heights, New York (July 21, 1998)

Matthews, Timothy J., Nissequogue, New York (August 3, 1998)

McMurray, Rusty W., Tulsa, Oklahoma (August 3, 1998)

Molnar, Charles Francis, Roswell, Georgia (July 21, 1998)

Murray, Michael Patrick, Long Beach, New York (July 21, 1998)

Payne, Michael Joseph, Staten Island, New York (August 17, 1998)

Posculli, Jr., Gil Michael, E. Northport, New York (July 24, 1998)

Salice, Lawrence Joseph, Greenlawn, New York (July 24, 1998)

Sposato, Michael Degnan, Purchase, New York (August 17, 1998)

Trocchio, Michael S., Staten Island, New York (August 6, 1998)

Van Blarcom, Jeffrey Allen, Mahwah, New Jersey (August 6, 1998)

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