

# Disciplinary Actions

## Disciplinary Actions Reported For August

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) 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, August 17, 1998. The information relating to matters contained in this *Notice* is current as of the end of July 24.

### Firms Expelled

**Stratton Oakmont, Inc. (Lake Success, New York)** submitted an Offer of Settlement pursuant to which the firm was expelled from membership in the NASD. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that, acting through its registered principals and registered representatives, the firm engaged in a practice of executing unauthorized transactions in the accounts of its customers when it did not have discretionary trading authority for any of these accounts. The findings also stated that the firm attempted to convince public customers to enter into transactions, and executed the transactions despite the customers' refusal to do so. Furthermore, the NASD determined that the firm executed trades without any communication with the customers and at times when its registered representatives knew that the customers were on vacation or were otherwise unavailable, and exceeded the authorized dollar or share amount in transactions authorized by the customers. In addition, the NASD found that the firm executed authorized sell orders but used the proceeds to buy other securities without, or contrary to, the customers' authorization or instructions.

### Firms Fined, Individuals Sanctioned

**Sunpoint Securities, Inc. (Longview, Texas)** and **Mary Ellen Wilder (Registered Principal, Longview, Texas)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$50,000, jointly and severally. In addition, Wilder was suspended from association with any NASD member in the capacity of a financial and operations principal for 10 days and must requalify by examination prior to future association with any NASD member in the capacity of a financial and operations principal. Further, Sunpoint must engage for at least six months an independent consultant to review financial and operational matters, including but not limited to, matters involving internal controls, net capital computations, and reserve computations. Such consultant must be acceptable to the NASD and must provide the NASD with its analysis and findings on a quarterly basis, with such consultant being made available for discussions with NASD staff members in the event such request is made. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Wilder, effected transactions in securities when it failed to have and maintain sufficient net capital and failed to make a required deposit to its Reserve Bank Account in connection with its reserve computations.

### Firms and Individuals Fined

**J. B. Oxford & Co. (Beverly Hills, California)** and **Kevin Michael Beadles (Registered Principal, Long Beach, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$20,000, 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 Beadles, failed to disclose the difference in the price securities were purchased from and sold to customers and the firm's contemporaneous offsetting purchase or sale price to or from a Market Maker in contravention of Securities and Exchange Commission (SEC) Rule 10b-10(a)(2)(ii)(A). Specifically, the firm failed to send public customers the requisite written notification or confirmation in securities transactions that it was not a Market Maker in these securities.

**PIM Financial Services, Inc. (San Diego, California), Jack Kendrick Heilbron (Registered Principal, Poway, California) and Mary Rose Limoges (Registered Principal, Poway, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Heilbron and Limoges, failed to transmit promptly \$285,000 in investor funds received in connection with a contingent offering of securities to a properly established bank escrow account.

### **Firms Fined**

**International Correspondent Trading, Inc. (Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$10,000. In addition, the firm must undertake to revise immediately its written supervisory procedures regarding short-sale rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale orders in securities and failed to maintain a

written record of the affirmative determination made for such orders. The findings also stated that the firm failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with Short-Sale Rules.

**Parker/Hunter Incorporated (Pittsburgh, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$29,707 and fined an additional \$1,000, jointly and severally, with an individual. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it acted as a junior co-managing underwriter in a negotiated offering of securities by an issuer with which it was precluded from engaging in a municipal securities business. The findings also stated that the firm failed to file quarterly reports timely and failed to include certain information on quarterly reports filed with the MSRB. Furthermore, the NASD determined that the firm failed to prepare and/or maintain the listing and records in the proper format and failed to implement certain of its established written policies and procedures to achieve compliance with MSRB Rules G-8(a)(xvi) and G-37.

### **Individuals Barred or Suspended**

**Alicia Allen (Registered Representative, Laurel, Maryland)** submitted an Offer of Settlement pursuant to which she was censured, fined \$20,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Allen consented to the described sanctions and to the entry of findings that she failed to respond to NASD requests for information.

**Gerard Joseph Arrigale, Jr. (Registered Representative, Middle Village, New York)** was censured, fined \$20,000, suspended from association with any NASD member in any capacity for six months, ordered to requalify by exam as a corporate securities limited representative, and ordered to complete the Regulatory Element of the NASD's Continuing Education Program as a condition to his return to the securities industry following completion of the suspension. The sanctions were based on findings that Arrigale falsely represented himself to be another broker, and requested the execution of securities transactions under the account number of a public customer, without the customer's knowledge, authorization, or consent.

**Walter Vance Bailey (Registered Principal, Brantley, Alabama)** 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, Bailey consented to the described sanctions and to the entry of findings that he failed to timely update his Form U-4 to reflect findings by the U.S. District Court, Northern District of Florida, that he had made a false statement to the Department of Agriculture, whose findings subjected him to statutory disqualification.

**Avin E. Bakal (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 Bakal failed to respond to NASD requests for information concerning a customer complaint.

**Donald J. Berg (Registered Representative, Broomall, Pennsylvania)** was censured and barred from association with any NASD member in

any capacity. The sanctions were based on findings that Berg made unsuitable recommendations to public customers and engaged in excessive trading in their accounts, and presented one customer a document that purported to show that his securities account was worth substantially less than it was actually worth in order to deceive the customer. In numerous instances involving several customers without the respective customer's knowledge or authorization, Berg requested his member firm to issue a check to the customer, obtained possession of the check, and either caused the check to be deposited to the securities account of another customer or converted the funds to his own benefit. In several instances, Berg caused a check payable to a customer by a third party to be credited to the securities account of another customer without the knowledge or authorization of the customer to whom the check was payable. Moreover, Berg obtained possession of blank checks issued to a customer for writing checks against her money market fund, wrote checks payable to himself, and converted the funds to his own benefit. Berg also failed to respond to NASD requests for information.

**Steven E. Blonde (Registered Principal, Ft. Lauderdale, Florida)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$15,000, barred from association with any NASD member in any capacity, required to pay \$38,000 plus interest in restitution to a public customer, and also required to pay restitution to another customer in accordance with a previous settlement agreement. Without admitting or denying the allegations, Blonde consented to the described sanctions and to the entry of findings that he sold securities to public customers outside the scope of his regular employment with his member firm

without giving prior notification to his member firm or receiving the firm's prior written approval.

**Matthew L. Bloom (Registered Representative, New York, New York)** submitted an Offer of Settlement pursuant to which he was censured, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by exam prior to becoming associated with any NASD member. Without admitting or denying the allegations, Bloom consented to the described sanctions and to the entry of findings that he failed to execute, refused to accept, or aggressively discouraged sell orders from public customers and engaged in unauthorized trading in customer accounts. The findings also stated that Bloom made baseless and improper price predictions pertaining to highly speculative securities and falsely promised to limit a customer's potential loss. Furthermore, Bloom promised to make up prior losses with new trading.

**Kenneth Alan Brown (Registered Representative, Murrysville, 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 six months. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

**Eric D. Brumagin (Registered Representative, Winston-Salem, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$25,000, suspended from association with any NASD member in any capacity for two years, ordered to disgorge \$37,138 in commissions to public customers, and required to

requalify as a general securities representative by taking and passing the Series 7 exam. Without admitting or denying the allegations, Brumagin consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to request or receive permission to engage in these transactions from his member firm.

**Samuel George Busada (Registered Principal, Saddle Brook, New Jersey)** submitted an Offer of Settlement pursuant to which he was censured, fined \$620,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Busada consented to the described sanctions and to the entry of findings that he misappropriated customer funds totaling \$123,853.83 for his own use. The findings also stated that Busada aided in the fraudulent assignment of a deceased public customer's partnership interest and allowed a \$1,500 check to be deposited into his account even though he knew it was an asset of the customer's estate.

**Arthur A. Bykonen (Registered Representative, Charlottesville, Virginia)** 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 one month. Without admitting or denying the allegations, Bykonen consented to the described sanctions and to the entry of findings that he established a joint securities account in the name of a public customer and the customer's son, signed the customers' names on the account form, initialed the form with both their initials, falsely stated the son's birth date in order to conceal the fact that the son was a minor, and submitted the form without disclosing either that the signa-

ture and initials of the son were not authentic or that the date of birth was false. The findings also stated that Bykonen's signature guaranteed stock powers signed by the customer with his own name and that of his son while knowing that the purported signatures of the son were not authentic.

**B. Alicia Campos (Associated Person, Northbrook, Illinois)** was censured, fined \$40,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that a member firm acting through Campos effected transactions in securities when it failed to maintain its minimum required net capital, prepared inaccurate trial balances and net capital computations, and filed inaccurate FOCUS Part I and IIA reports. In addition, Campos was associated with a member firm while failing to qualify and/or register in the appropriate capacity prior to engaging in such capacity. Campos also failed to respond fully to NASD requests for information.

**John Melvin Davis (Registered Representative, Bellwood, Illinois)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Davis consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice or receive approval from his member firm of his intention to engage in such activities.

**Glenn Mitchell Dobbs (Registered Principal, Chelan, Washington)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$42,700, and suspended from asso-

ciation with any NASD member in any capacity for 18 months. Without admitting or denying the allegations, Dobbs consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide prior written notice to his member firm describing in detail the proposed transactions and his proposed role therein, and stating whether he would receive selling compensation in connection with the transactions.

**Debbie Ann Fairley (Registered Representative, Jackson, Mississippi)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fairley consented to the described sanctions and to the entry of findings that she established a credit card account by using the name and social security number of a co-worker's spouse, and charged approximately \$14,000 to the credit card for her own benefit without the co-worker's knowledge or consent.

**Michael J. Falco (Registered Representative, Marshfield, Massachusetts)** was censured, fined \$6,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam as an investment company and variable contracts products representative. The sanctions were based on findings that Falco forged a public customer's signature on an insurance document without the customer's knowledge or consent. Falco also failed to respond to NASD requests for information.

**Raymond Andrew Frias (Registered Representative, Merrick, New York)** 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 days. Without admitting or denying the allegations, Frias consented to the described sanctions and to the entry of findings that he executed securities transactions in the account of a public customer without the customer's knowledge, authorization, or consent.

**Darren Ginas (Registered Principal, Medford, New York)** submitted an Offer of Settlement pursuant to which he was censured, suspended from association with any NASD member in any capacity for four months, required to requalify by exam as a general securities representative, and required to pay \$70,735 in restitution to public customers. Without admitting or denying the allegations, Ginas consented to the described sanctions and to the entry of findings that he made material misrepresentations, omitted material information, and made fraudulent price predictions in the offer and sale of securities.

**Donald Cletus Girard (Registered Principal, Federal Way, Washington)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$30,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Girard consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide prior written notice to his member firm, describing in detail the proposed transactions, his proposed role therein, and stating whether he had received or might receive selling compensation.

**Robert Walter Gleiche (Registered Principal, Timonium, Maryland)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$37,500, suspended from associa-

tion with any NASD member in any capacity for 10 business days, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, Gleiche consented to the described sanctions and to the entry of findings that, on numerous occasions, he purchased shares of stock that traded at a premium in the immediate aftermarket, in contravention of the Board of Governors' Interpretation on Free-Riding and Withholding. The findings also stated that Gleiche failed to give written notice to his member firm that he opened accounts with other firms, and failed to provide written notification to the executing firms of his association with the member firm.

**Eliezer Gurfel (Registered Representative, San Mateo, California)** was censured and barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) affirmed the sanctions following appeal of a Washington D.C. District Business Conduct Committee decision. The sanctions were based on findings that Gurfel forged the endorsement of the president of his member firm on checks, negotiated each check, and converted the proceeds to his own use and benefit.

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

**Henry A. Hale (Registered Principal, Marietta, Georgia)** was censured, fined \$10,000 and suspended from association with any NASD member in any principal or supervisory capacity for 10 business days. The sanctions were based on findings that Hale failed to supervise reasonably the sales activities of an individual in order to prevent and/or detect the unsuitable trading that occurred in the account of a public customer.

**Mark Arthur Hanna (Registered Representative, Manhasset, New York)** submitted an Offer of Settlement 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, Hanna consented to the described sanctions and to the entry of findings that he failed to respond completely to NASD requests for information.

**Akiko L. Hasegawa (Registered Representative, Westminster, California)** was censured, fined \$82,500, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hasegawa converted public customers' funds totaling \$16,500. Specifically, Hasegawa received personal checks from the customers for investment purposes. Instead of making the investments, Hasegawa deposited the checks in a bank account controlled by her, gave false confirmation statements indicating that the money had been invested, and used the funds for personal expenses. Hasegawa made no effort to make restitution until her firm discovered the conversion of a public customer's funds, and then, did not disclose the conversion of other customers' funds.

**Frederick B. Hornick, Jr. (Registered Principal, Englewood, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$30,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hornick consented to the described sanctions and to the entry of findings that he participated in private securities transactions without giving his member firm prior written notice of his activities. Hornick also failed to respond to NASD requests for information.

**Dale Fuller Jackson (Registered Principal, Wall, New Jersey)** submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Jackson consented to the described sanctions and to the entry of findings that he recommended and effected purchases of limited partnership units and/or shares by public customers without having a reasonable basis for believing the recommendations were suitable for these customers in light of their investment objectives, financial situations, and needs. The findings also stated that Jackson participated in private securities transactions without prior written notice to and acknowledgment from his member firm. According to the findings, Jackson breached his fiduciary duty with a public customer by behaving in a manipulative, deceptive, and intimidating manner during settlement discussions with the customer which was heightened by his superior knowledge of the securities industry and the customer's relative lack of knowledge, her age, and her reliance on and trust in Jackson.

**Paul George Karkenny (Registered Representative, Amityville, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$283,008.13, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Karkenny consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 exam on his behalf. The findings also stated that Karkenny solicited an aftermarket purchase for shares of stock from a public customer prior to the effective registration date of the security by the SEC and failed to follow the customer's instructions regarding the purchase. Karkenny

also executed securities transactions in the account of public customers without the customers' prior knowledge, authorization, or consent.

**Reynold Bradford Kern (Registered Representative, Scottsdale, Arizona)** was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Kern participated in private securities transactions without providing prior written notification to his member firm.

**Alan M. Kletchka (Registered Representative, Port Jefferson, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and ordered to pay \$327,180 in restitution to public customers. Without admitting or denying the allegations, Kletchka consented to the described sanctions and to the entry of findings that he made material misrepresentations and omitted to disclose material facts in connection with his recommendations of securities to public customers. The findings also stated that in connection with his recommendations of securities to public customers, Kletchka made fraudulent price predictions.

**Paul Kevin Knutson (Registered Representative, Carmichael, California)** submitted an Offer of Settlement pursuant to which he is censured, fined \$1,500, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Knutson consented to the described sanctions and to the entry of findings that he submitted a Form U-4 to a member firm that failed to disclose that he had been convicted of a felony.

**Joseph Oscar Mader (Registered Representative, Lewiston, Idaho)** was censured, fined \$10,000, suspended from association with any NASD member in any capacity for two years, and required to requalify as a general securities representative following the completion of the suspension. The sanctions were based on findings that Mader failed to respond fully to NASD requests for information.

**Joseph Paul Malyszek (Registered Representative, Clarks Summit, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$3,000,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Malyszek consented to the described sanctions and to the entry of findings that he received approximately \$600,000 from public customers intended for investment purposes, failed to invest the funds as represented, and instead, converted the funds to his own use and benefit without the customers' knowledge or consent.

**Michael McCormick (Registered Representative, Bethel, Connecticut)** was censured, fined \$125,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that McCormick withheld and misappropriated at least \$23,052.35 from public customers and converted the funds to his own use and benefit. McCormick also failed to respond to NASD requests for information.

**Paul Joseph Montessoro (Registered Representative, Boerne, Texas)** was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Montessoro failed to respond to NASD requests for information and to provide testimony.

**William John Mooney (Registered Principal, Bayside, New York)** was censured, fined \$20,000 and suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that Mooney failed to timely respond to NASD requests for information.

**James M. Ortiz (Associated Person, Chicago, Illinois)** was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Ortiz failed to respond to NASD requests for information.

**Rafael Pinchas (Registered Representative, Hillcrest, New York)** was censured, fined \$219,821, and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a New York District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Pinchas made recommendations to and effected securities and options transactions in public customers' accounts including margin transactions that were excessive and unsuitable without having reasonable grounds to believe that the transactions were appropriate for the customers in light of their investment objectives, other security holdings, and financial situation and needs. In addition, Pinchas engaged in a scheme to misappropriate funds from the same customer's account by giving his member firm a letter of authorization purportedly signed by the customer authorizing the transfer of \$6,000 to the account of another customer. The funds were subsequently given to Pinchas without the customer's authorization.

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

**Mark A. Reilly (Associated Person, Doylestown, Pennsylvania)** was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Reilly failed to respond to NASD requests for information.

**Reaynaden Denina Relatores (Registered Representative, Huntington Beach, California)** submitted an Offer of Settlement pursuant to which she was censured, and suspended from association with any NASD member in any capacity for five years, and ordered to requalify by exam in all capacities. The sanctions were based on findings that Relatores participated in private securities transactions without providing prior written notification to her member firm and without receiving prior written approval from her firm.

**Robert Rondinella (Registered Representative, Brooklyn, New York)** was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Rondinella failed to respond to NASD requests for information and to appear for an on-the-record interview.

**Joseph Russo III (Registered Representative, Staten Island, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$202,990.97 to the NASD. Without admitting or denying the allegations, Russo consented to the described sanctions and to the entry of findings that he arranged to have an impostor take the Series 7 exam on his behalf. Russo also failed to respond truthfully to the NASD during an on-the-record interview.

**Benito Saucedo (Registered Principal, Denver, Colorado)** and **Glenn Pellone (Registered Representative, Denver, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which Saucedo was censured, fined \$15,000, suspended from association with any NASD member in any capacity for 15 business days, suspended from association with any NASD member in any principal capacity for an additional 15 business days, and required to requalify as a registered principal by passing the Series 24 exam. Pellone was censured, fined \$2,500, suspended from association with any NASD member in any capacity for 30 business days, and required to requalify as a registered representative by passing the Series 7 exam. In addition, Pellone was required to make rescission or restitution to public customers of stock purchases, jointly and severally, with a member firm. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Pellone solicited public customers and made recommendations to purchase securities without having reasonable grounds for believing that his recommendations were suitable for the customers based upon the facts disclosed by the customers as to their other security holdings, their financial situation, and needs. The findings also stated that Saucedo failed to supervise Pellone's activities properly by allowing him to make unsuitable recommendations and to effect unsuitable securities transactions. Furthermore, the NASD determined that Saucedo prepared new account forms, order tickets, and confirmations of sale that falsely reflected that he was the representative of record handling customers' accounts when, in reality, he had had no prior contact with the customers and it was Pellone who was actually the representative of record for such accounts.

**Anthony Dennis Schiano (Registered Representative, Franklin Square, New York)** was censured, fined \$7,500, suspended from association with any NASD member in any capacity for 30 days, and required to requalify in all capacities prior to functioning again in any capacity that requires requalification. The sanctions were based on findings that Schiano failed to comply with Regulation T of the Federal Reserve Board in that he purchased shares of stock in his own cash account at his member firm when he knew or should have known that he did not have sufficient funds in his account to pay for the purchase. Moreover, Schiano never had the intent to make full cash payment for the stocks in a prompt fashion or otherwise before selling them. In addition, Schiano wrote purchase order tickets and entered orders via computer or telephone for his personal securities account at a time when he knew he was not qualified to do so.

**Larry R. Schlappi (Registered Representative, Orem, Utah)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$12,000, and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Schlappi consented to the described sanctions and to the entry of findings that he participated in private securities transactions without giving his member firm prior written notice of his activities and his role therein.

**Aleksandr Shvarts (Registered Principal, Brooklyn, New York)** submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, suspended from association with any NASD member in any capacity for 10 business days, and suspended from association with any NASD member in any principal capacity for 30 business days. In

addition, Shvarts must requalify by exam as a general securities principal and will be suspended until he requalifies. Without admitting or denying the allegations, Shvarts consented to the described sanctions and to the entry of findings that he failed to timely execute customers orders to sell stock on either a principal or agency basis.

**Josh I. Sisler (Registered Representative, Rocky Point, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$18,850, suspended from association with any NASD member in any capacity for 18 months, and required to pay \$33,148 in restitution to public customers. Without admitting or denying the allegations, Sisler consented to the described sanctions and to the entry of findings that, in connection with the solicitation of securities transactions, he made material misrepresentations and omitted to disclose material information concerning securities to public customers.

**Lawrence Todd Smith (Registered Representative, Jericho, New York)** submitted an Offer of Settlement pursuant to which he 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 NASD member firm. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he made unauthorized trades in the account of a public customer and made baseless and improper price predictions as to speculative securities to customers. The findings also stated that Smith falsely promised to limit customer losses, induced a customer to purchase an unsuitably risky security, and falsely told the customer that the

security was not risky. Furthermore, the NASD determined that Smith failed to execute a customer sell order, made false representations to a customer as to an issuer's business prospects, and falsified the new account documentation of a customer to create the appearance that the customer could and wanted to invest in speculative securities. Smith also failed to testify truthfully to the NASD regarding its investigation of the matter.

**Steven Edward Smith (Registered Representative, Bakersfield, California)** submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, barred from association with any NASD member in any capacity, and required to pay \$45,000 in restitution to a member firm. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. The findings also stated that in order to induce public customers to invest in stock, Smith made untrue statements of material facts and omitted to state material facts necessary in order to make the statement not misleading.

**Kevin Lee Spencer (Registered Principal, Castle Rock, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$20,000, and suspended from association with any NASD member in any principal capacity for three months. Without admitting or denying the allegations, Spencer consented to the described sanctions and to the entry of findings that he participated in a private placement offering subject to a minimum sales contingency and failed to deposit investor funds into an escrow account. The findings also stated that Spencer failed to return funds to investors when terms

of the contingency were not met and failed to supervise an individual properly.

**Darryl Leon Strom (Registered Representative, Mill Creek, Washington)** and **Irvin Nels Strom (Registered Representative, Auburn, Washington)** submitted Offers of Settlement pursuant to which Darryl Strom was censured, fined \$69,994, and barred from association with any NASD member in any capacity; Irvin Strom was censured, fined \$45,489, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they participated in private securities transactions and failed to provide their member firm prior written notice describing in detail the proposed transactions and their roles therein, and stating whether they would receive selling compensation in connection with the transactions. The findings also stated that Darryl Strom failed to respond to an NASD request for information.

**Chichiang Tang (Registered Representative, Hollywood, Florida)** was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Tang attempted to share in a customer account. Tang also failed to respond to NASD requests for information.

**Wyder L. Tutiven (Registered Representative, Patchogue, New York)** was censured, fined \$75,000, barred from association with any NASD member in any capacity, and ordered to pay \$102,322.57 in restitution to public customers. The sanctions were based on findings that, in soliciting customers to purchase securities, Tutiven misrepresented and failed to disclose material facts concerning securities and fraudulent-

ly predicted significant price increases for securities to induce public customers to purchase them. Tutiven also effected an unauthorized trade in a customer's account and failed to follow the customer's instructions to sell stock.

**Emilio Fernando Valdes (Registered Representative, Holmdel, New Jersey)** submitted an Offer of Settlement pursuant to which he was censured, fined \$20,000, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Valdes consented to the described sanctions and to the entry of findings that he falsified records by signing transfer authorization forms causing the transfer of funds between public customers' accounts in order to win a sales contest sponsored by his member firm. The findings also stated that Valdes failed to respond fully to NASD requests for information.

**Ronald L. Wallen (Registered Principal, Farmington, Michigan)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$500,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wallen consented to the described sanctions and to the entry of findings that he obtained a total of \$201,673.85 from public customers with instructions to use the funds to purchase mutual funds and high interest mortgage loans. The findings stated that Wallen failed to follow the customers' instructions and used the funds for investments in other companies, to pay his firm's office expenses, to pay himself, and for purposes other than the benefit of the customers. Wallen also failed to respond fully to NASD requests for information.

**Weese Roosevelt Alex Watson (Registered Representative, Kingwood, Texas)** was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Watson failed to respond to NASD requests for information.

**Edward Lee Willis Sr. (Registered Principal, Southhampton, New Jersey)** 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 ordered to pay \$143,500 in restitution to public customers. Without admitting or denying the allegations, Willis consented to the described sanctions and to the entry of findings that he received checks totaling \$143,500 from public customers for the purpose of purchasing franchises. The NASD determined that Willis never completed the purchases, and instead, converted the funds to his own use and benefit without the customers' knowledge or consent.

**Michael Lee Yancey (Registered Representative, Lake Park, Georgia)** was censured, fined \$1,000, suspended from association with any NASD member in any capacity for six months, and further suspended until he requalifies by exam as an investment company and variable contracts product representative. The NAC imposed the sanctions following appeal of an Atlanta DBCC decision. The sanctions were based on findings that Yancey received \$100 from a public customer in part to pay premiums due on insurance policies and to apply to an outstanding loan. Yancey deposited \$80 of those funds in his personal checking account.

## Individuals Fined

**Dale Buddington Dir (Registered Representative, Visalia, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured and fined \$21,500. Without admitting or denying the allegations, Dir consented to the described sanctions and to the entry of findings that he opened a securities account at a member firm and failed to provide written notice to the firm of his registration status and failed to provide written notice to his employer member firm that he had a beneficial interest in this securities account at the time he opened the account. The findings also stated that Dir purchased shares of stock that traded at a premium in the immediate aftermarket in contravention of the Board of Governors Free-riding and Withholding Interpretation.

## 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 June 30, 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*.

**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.

Golick 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.

### **Stanley Alan Anderson, Jr. (Registered Representative, Cartersville, Georgia)**

was named as a respondent in an NASD complaint alleging that he received a proceeds check from the redemption of a public customer's savings bonds in the amount of \$8,732.04 and converted \$5,709.00 of the funds to his own use and benefit. The complaint alleges that Anderson withdrew \$2,029.66 from the customer's savings account, sold the customer's securities for \$34,219.71, and used the funds and proceeds totaling \$36,249.37 to purchase shares of a government fund, all without the customer's knowledge or authorization. The complaint also alleges that Anderson effected unauthorized sales totaling \$15,224.61, made misrepresentations that the redemption checks were sent in error and that the funds were intended to be invested in another fund, asked the customer to endorse the checks, or forged the customer's endorsement in one instance, and converted the total amount by depositing it in his bank account. Additionally, the complaint alleges that Anderson redeemed the customer's Certificate of Deposit without her knowledge or authorization, forged the customer's endorsement on \$94,332.14 proceeds checks, of which \$48,983.14 he converted by cashing or depositing at his bank. Furthermore, the

complaint alleges that Anderson falsely stated to the customer that he was going to invest \$82,516.72 of the customer's funds, falsely represented himself in a telephone conversation with the customer as a fictitious representative of a firm in an attempt to discover what the customer had told the compliance department of the firm, and falsely told the customer and the compliance department of the firm that he had invested the customer's funds with a fictitious representative of another firm. The complaint also alleges that Anderson failed to respond to NASD requests for information.

### **Mark S. Balbirer (Registered Representative, Sunrise, Florida)**

was named as a respondent in an NASD complaint alleging that he effected securities transactions in the account of a public customer without the customer's prior knowledge or authorization.

**Biltmore Securities, Inc., (n/k/a Midas Investment Group, Inc., Fort Lauderdale, Florida), Elliott Akiva Loewenstern, (Registered Principal, Boca Raton, Florida) and Richard Bruce Bronson (Registered Principal, Golden Beach, Florida)** were named as respondents in an NASD complaint alleging that Biltmore Securities, Inc., acting through Loewenstern and Bronson, recommended and sold to public customers units of an initial public offering and failed to disclose to the customers during the review period of the offering material facts that should have been disclosed by the firm to its customers, including the fact that the respondents had an adverse interest in the offering.

**Arthur E. Cohen (Registered Representative, Pittsburgh, Pennsylvania)** was named as a respondent in an NASD complaint alleging that he requested that a check in the

amount of \$15,000 be issued against the securities account of a public customer, physically obtained the check, endorsed it with the purported endorsement of the customer and his own endorsement, and deposited it in his own bank account, all without the authorization of the customer. The complaint also alleges that Cohen caused \$14,000 to be transferred from the securities account of one public customer to the bank account of another, without the prior authorization or consent of the first customer.

### **Robert Vance Manuel English (Registered Principal, San Diego, California)**

was named as a respondent in an NASD complaint alleging that he received a check in the amount of \$20,571.69 from a public customer to be used for investment purposes and, without the customer's knowledge or consent, converted the funds to his own use and benefit by depositing the check in his firm's general operating bank account and writing checks on the account payable to himself and cash. The complaint also alleges that English provided the customer with fabricated statements to mislead the customer into believing that her funds had been safely invested and were accumulating interest, when in fact, no investments had been made on the customer's behalf and the accumulating interest never existed. The complaint also alleges that English failed to respond to NASD requests to provide information.

**Raymond D. Eisenberg (Registered Representative, Bridgeton, New Jersey)** was named as a respondent in an NASD complaint alleging that he received \$23,803.71 from public customers as payment of insurance premiums, failed to submit these funds on the customers' behalf, and instead converted the funds to his own use and benefit, without the customers' knowledge or

consent. The complaint also alleges that Eisenberg failed to respond to NASD requests to provide information.

**Carl J. Hagmaier (Registered Representative, San Luis Obispo, California)** was named as a respondent in an NASD complaint alleging that he received \$70,000 from public customers for investment in mutual funds and, instead of investing the funds as instructed, deposited the checks into a bank account and misused the funds himself and/or permitted others to misuse the funds. The complaint alleges that in order to conceal the misconduct, Hagmaier prepared and sent a fabricated account statement to a public customer which falsely stated that her funds had been invested in a cash and stock fund as instructed. The complaint also alleges that Hagmaier sold a pension plan to a company to provide retirement benefits for its employees, represented that the periodic contributions to the plan by the company would be placed in life insurance policies, bonds, notes, and money market funds, then misused approximately \$110,951.91 of the plan's funds for unrelated business and personal expenses which did not benefit the plan. The complaint alleges that Hagmaier sold life insurance policies to public customers and a general partnership, had \$160,000.00 worth of loans taken on the value of the policies without the knowledge or consent of the customers or partnership, forged or caused to be forged the signatures of a customer and one of the general partners, and deposited the funds in an account. Neither the customers nor the partnership received any benefit from the \$160,000.00, which was never repaid. The complaint also alleges that Hagmaier failed to produce documents requested by the NASD.

**John Vernon Hiers (Registered Representative, Canyon Lake, California)** was named as a respondent in an NASD complaint alleging that he received \$7,500 from a public customer for deposit in a new trading account in the customer's name and authorization to execute in the customer's account a single day trade involving shares of securities. Hiers converted the funds to his own use and benefit by depositing the check into his own securities account without the customer's knowledge or consent. The complaint alleges that Hiers dissipated all but \$1,393.23 of the customer's funds through reckless and risky trading in the account. The complaint also alleges that in order to conceal the misconduct and to lull the customer into believing that a trading account existed in the customer's name, Hiers falsely represented to the customer that account statements reflecting the trade that the customer had authorized in his account would be forthcoming, when, contrary to these representations, no such statements were ever provided to the customer because no account was ever established in the customer's name.

**Frank J. Hutton (Registered Representative, Raymond, Mississippi)** was named as a respondent in an NASD complaint alleging that he effected securities transactions in the joint account of public customers without prior authorization from the customers. The complaint alleges that Hutton caused a check in the amount of \$29,972.71 to be issued from the joint account, which represented the proceeds from the unauthorized transactions, and converted the funds to his own use and benefit by forging the customers' signatures to the check and depositing the check into a bank account under his control. The complaint also alleges that, in an effort to conceal the transactions from the customers' account, Hutton prepared and mailed to the

customers a fictitious account statement that did not reflect the liquidation of certain stock, nor his withdrawal of funds in the amount of \$29,972.71. In addition, the complaint alleges that Hutton effected securities transactions totaling \$96,552.40 in a joint account of other public customers, without their prior written or oral authorization, and converted these funds to his own use and benefit by forging the customers' signatures on checks and maintaining possession of the funds, without the customers' knowledge or consent. Finally, the complaint alleges that Hutton failed to respond to NASD requests for information.

**James Andrew Hyde (Registered Principal, Niwot, Colorado)** was named as a respondent in an NASD complaint alleging that he effected the purchase of securities transactions in the account of a public customer without the prior authorization of the customer. The complaint also alleges that Hyde failed to respond to NASD requests to provide information.

**Harold Lee Jenkins (Registered Representative, Bronx, New York)** was named as a respondent in an NASD complaint alleging that he received tellers checks from public customers for investment in mutual funds and/or insurance products, and instead of investing the funds on their behalf, converted \$30,171.61 of those funds to his own use and benefit. The complaint also alleges that Jenkins failed to appear for an on-the-record interview requested by the NASD.

**Robert J. Kendzierski (Registered Representative, Erie, Pennsylvania)** was named as a respondent in an NASD complaint alleging that he converted \$6,000 in funds given to him by a public customer. The complaint alleges that Kendzierski received checks from the customer

to deposit in the customer's interest-bearing insurance policy, altered these checks by drawing a line through the payee's name and writing his name instead on the payee line of the checks, endorsed the checks in an attempt to conceal his conversion and deposited them in his personal bank account. The complaint further alleges that in an attempt to conceal his conversion, Kendzierski backdated a repayment check.

**Keogler, Morgan & Co., Inc. (Atlanta, Georgia), Craig R. Smith (Registered Principal, Duluth, Georgia), Chris S. Guerin (Registered Principal, Marietta, Georgia), and Douglas A. Dyer (Registered Representative, Chattanooga, Tennessee)** were named as respondents in an NASD complaint alleging that the firm, acting through Smith and Dyer, effected principal purchases of common stock from public customers of the firm with excessive mark-downs and at prices which were not fair taking into consideration all relevant circumstances. The complaint also alleges that the firm, acting through Smith, failed to report trades Smith effected on behalf of the firm, including a majority of the trades at issue in the mark-downs, failed to report trades within 90 seconds of execution without employing the requisite ".SLD" modifier, incorrectly reported wholesale trades as retail trades, and incorrectly reported the price on trades. The complaint alleges that Guerin failed to adequately supervise Smith's trading in common stock and, as a result, failed to detect that Smith and Dyer were purchasing stock from public customers subject to excessive mark-downs. The complaint alleges that Dyer effected securities transactions in the accounts of his public customers without the customers' prior knowledge or authorization.

**Robert Joseph Kernweis (Registered Representative, Burbank, California), Glenn Peter Kernweis (Registered Representative, Deerfield Beach, Florida) and Greg Steven Sklar (Registered Representative, Los Angeles, California)** were named as respondents in an NASD complaint alleging that Robert Kernweis recommended purchase and sale securities transactions to a public customer without having reasonable grounds for believing that they were suitable for the customer and the account in view of the size, frequency and nature of the recommended transactions and the facts disclosed by the customer as to his financial situation, objectives, circumstances and needs. The complaint alleges that the recommended trades constituted unsuitably excessive trading and that Robert Kernweis induced the transactions by means of manipulative, deceptive or other fraudulent devices or contrivances. The complaint also alleges that Robert Kernweis, Glenn Kernweis and Sklar conducted business as a group under one investment executive number, and, as members of the group, Glenn Kernweis and Sklar knew or should have known that the recommendations were unsuitable for the customer and that the account was excessively traded. The complaint alleges that Glenn Kernweis and Sklar failed to take appropriate action to prevent the violative activity and that they substantially benefited from the violative trading activity as equal participants who shared commissions equally from all activity of the group.

**James Richard Mancuso (Registered Principal, Patchogue, New York)** was named as a respondent in an NASD complaint alleging that he made material misrepresentations to public customers and failed to disclose material facts to the customers in order to induce them to purchase securities. The complaint alleges

that Mancuso made fraudulent price predictions to public customers in connection with his recommendations.

**John Joseph Viscogliosi (Registered Representative, Chicago, Illinois)** was named as a respondent in an NASD complaint alleging that he executed discretion in the accounts of public customers and purchased securities without the knowledge or consent of the customers.

**Firm Expelled For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations Murphey, Marseilles, Smith & Nammack, Inc., New York, New York (June 29, 1998)**

### **Firms Suspended/Canceled**

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspensions commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

**Carlisle Investment Group, Chicago, Illinois (June 29, 1998)**

**Duke & Co., Inc., New York, New York (July 2, 1998)**

**TBD Capital Markets Trust, Miami, Florida (July 2, 1998)**

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

**Euro-Atlantic Securities, Inc.**, Boca Raton, Florida (June 26, 1998)

**Investors Associates, Inc.**, Hackensack, New Jersey (July 14, 1998)

**Jonathan Alan & Co., Inc.**, Katonah, New York (June 29, 1998)

**J.S. Securities, Inc.**, Point Pleasant Beach, New Jersey (June 25, 1998)

**Maidstone Financial, Inc.**, New York, New York (June 26, 1998)

**Marsh Block & Co., Inc.**, New York, New York (July 14, 1998)

**Printon, Kane Group, Inc.**, Wall Township, New Jersey (June 29, 1998)

**State Street Capital Markets Corp.**, New York, New York (July 15, 1998)

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

**Cooper, Theodore F.**, New Scabury, Massachusetts (June 29, 1998)

**Frederick, Douglas Glen**, Miami, Florida (July 16, 1998)

**Roach, Donna R.**, Murrieta, California (June 29, 1998)

**Shah, Ashvin, R.**, Elmhurst, Illinois (June 29, 1998)

**Wallace, Robert L.**, Naples, Florida (June 29, 1998)

**Winchester, James E.**, Metairie, Louisiana (June 29, 1998)

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

**Barnes, Milton R.**, Phoenix, Arizona (June 26, 1998)

**Basile, Jack Robert**, Brooklyn, New York (June 29, 1998)

**Bent, Radcliff St. Aubyn**, Colts Neck, New Jersey (July 16, 1998 - July 22, 1998)

**Bronzino, Michael A.**, Princeton, New Jersey (June 29, 1998)

**Caso, Michael**, Brooklyn, New York (July 21, 1998)

**Densing, Keith**, Melville, New York (June 29, 1998 - July 13, 1998)

**Donovan, Gale R.**, New York, New York (June 26, 1998)

**Hosang, Ian**, Brooklyn, New York (June 26, 1998)

**Klotsman, Eugene a/k/a Gennady Ilya Klotsman**, Brooklyn, New York (July 21, 1998)

**Kohlhass, Neal**, Novato, California (June 24, 1998)

**Langer, Thomas Mark**, Congers, New York (July 16, 1998)

**Mahon, Kevin Michael**, Manalapan, New Jersey (July 14, 1998)

**Mandile, Kenneth Alan**, Staten Island, New York (June 26, 1998 - July 14, 1998)

**McCartney, Peter Bernard**, Middle Village, New York (July 14, 1998)

**McKay, Jr., Edward Arthur**, New York, New York (July 14, 1998)

**Philip, Robert Colin**, Baldwin, New York (June 29, 1998)

**Seymour, Patricia Ann**, Sandy Hook, Connecticut (June 29, 1998)

**Sigfrid, Daniel**, Champlin, Minnesota (July 8, 1998)

**Szur, Jeffrey S.**, Sea Bright, New Jersey (June 25, 1998)

**Van Blarcom, Jeffrey**, Mahwah, New Jersey (June 26, 1998)

**Verola, Victor**, Vero Beach, Florida (July 20, 1998)

### **NASD Regulation Sanctions Colorado Broker; Restitution Ordered**

NASD Regulation announced that it barred Winston Carroll Dennis from the securities industry and fined him \$525,000 in connection with the theft of \$75,000 from a customer, and for other violations. Dennis, who was also censured, was ordered to make full restitution to the customer.

NASD Regulation found that Dennis twice forged the signature of his customer on an insurance policy loan application in September and October 1997. The insurance company subsequently issued the funds – which Dennis then converted to his own use.

Following a referral by the Colorado Division of Insurance, NASD Regulation found that Dennis had borrowed \$735,000 from 12 customers by issuing Promissory Notes to the investors. NASD rules forbid brokers from engaging in private securities transactions – such as issuing these types of Promissory Notes – without first notifying their employer.

NASD Regulation also found that in April 1998, Dennis told one investor that in order to collect a loan that had come due, an additional \$5,000 was required. Dennis later converted these funds to his own use as well.

Dennis also maintained personal brokerage accounts at 10 different brokerage firms and failed to disclose the existence of these accounts in violation of NASD rules.

At the time of these violations, Dennis maintained an office under the name of "Dennis Insurance and Investments" in Grand Junction, CO. He had clients across the state's Western Slope, in Grand Junction, Montrose, Austin, Naturita, Nucla, Leadville, Clifton, and Eckert.

This case was brought by NASD Regulation's District 3 Office in Denver. Dennis neither admitted nor denied NASD Regulation's findings.

### **NASD Regulation Fines Troster Singer For Intentional Late Trade Reporting; Six Brokers Also Sanctioned**

NASD Regulation fined Troster Singer \$950,000 and censured the firm for fraud in connection with a series of 28 intentional trade reporting violations. Six Troster Singer employees were also sanctioned and fined a total of \$100,000.

Troster Singer, which neither admitted nor denied NASD Regulation's findings, was sanctioned for intentionally failing to report within 90 seconds Nasdaq Stock Market trades – many of which were made with large institutional customers. This conduct occurred between April and October 1994.

NASD rules require that every security's price – and the amount sold – be promptly displayed to the marketplace so that all market participants have equal access to the information. Troster Singer deliberately delayed reporting its trades in order to gain a competitive advantage by depriving other market participants of information regarding purchases and sales made by institutional and other investors.

Deliberately delaying trade reporting allows a brokerage firm to cover its positions while at a significant informational advantage over other market participants. NASD Regulation found that Troster Singer – knowing of these large unreported trades while the market did not – bought and sold shares from other dealers and customers in deceptive proprietary trading.

Troster Singer also was sanctioned for unintentionally reporting 18 other trades as late. When these 46 late trades were eventually reported, they were marked with an incorrect execution time, did not include the proper late designation, or both. In total, 16 securities were involved. Troster Singer's intentional late trade reporting practices were evidenced in conversations taped by the firm.

NASD Regulation found that Troster Singer's traders directed the firm's institutional sales representatives (who were assigned to specific institutional customers, and acted as liaisons between the institutional customers and the traders) to delay trade reports, or to falsely document that certain trades were stopped orders. In a stopped order, a brokerage firm agrees to execute the trade at a specific, or better, price.

NASD Regulation also found that while Troster Singer knew about and cautioned its traders to stop these late trade reporting practices, they nevertheless continued. As part of its agreement with NASD Regulation, Troster Singer will hire an independent consultant to review its trade reporting practices.

Six Troster Singer employees were sanctioned:

- Lowell Millar, trader, was fined \$25,000, suspended in all capacities for 25 days, and censured.
- Michael Ling, trader, was fined \$25,000, suspended in all capacities for 25 days, and censured.

- John Quigley, trader, was fined \$20,000, and censured.
- Lisa Bozzi Albanese, institutional sales representative, was fined \$10,000, and censured.
- Charles Esposito, institutional sales representative, was fined \$10,000, and censured.
- Steve Cline, institutional sales representative, was fined \$10,000, and censured.

NASD Regulation thanked the SEC for its substantial assistance in this case.

Over the last few years, NASD Regulation has developed and implemented a series of initiatives to protect investors and enhance compliance with market rules. These include:

- Order Audit Trail System - The first phase of the Order Audit Trail System (OATS) will begin collecting information on all electronic orders received by market makers and Electronic Communication Networks (ECNs) on March 1, 1999. This system will track orders from the time they are entered until final execution.
- Exam Program - Beginning in 1996, NASD Regulation's Market Regulation Department initiated a comprehensive program to examine Nasdaq Market Makers for compliance with trading and reporting rules.
- Advanced Detection System - The Advanced Detection System (ADS) began operation in July 1997. Using sophisticated data mining, artificial intelligence, statistical analysis, and visualization technologies, ADS detects and evaluates patterns in trading data to search for potential violations of NASD trade reporting, market integrity, and best execution rules. ADS processes about 800,000 quotes every day.
- Hot Lines - NASD Regulation's Market Regulation Department instituted toll-free hot lines for the reporting of potential market harassment and potential backing away violations.

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