

Disciplinary Actions

Disciplinary Actions Reported For April

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions will begin with the opening of business on Monday, April 20, 1998. The information relating to matters contained in this *Notice* is current as of the end of March 25.

Firm Expelled, Individual Sanctioned

Feltman & Co. (Atlanta, Georgia) and **Jack E. DeLong, Jr. (Registered Principal, Dunwoody, Georgia)**. The firm was censured, fined \$100,000, and expelled from NASD membership. DeLong was censured, fined \$30,000, and barred from association with any NASD member as a financial and operations principal. The sanctions were based on findings that the firm permitted six individuals to conduct a securities business without being registered with the NASD and failed to update its Form BD in a timely manner to reflect that it had replaced its financial and operations principal. In addition, the firm, acting through DeLong, failed to maintain complete, current, and accurate books and records, conducted a securities business while failing to maintain its minimum required net capital, and filed FOCUS reports Part I and II that materially overstated its net capital.

DeLong has appealed this action to the National Adjudicatory Council (NAC) and the sanctions imposed against him are not in effect. The findings and sanctions imposed in the decision as to DeLong may be increased, decreased, modified, or reversed by the NAC.

Firm Suspended, Individual Fined

Ko Securities, Inc. (Seattle, Washington) and **Terrance Y. Yoshikawa (Registered Principal, Seattle, Washington)** were fined \$10,000, jointly and severally. In addition, the firm was suspended from proprietary trading and market making for five business days and Yoshikawa must attend a compliance conference with NASD Market Regulation staff. The Securities and Exchange Commission (SEC) affirmed the sanctions following appeal of a January 1997 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that the firm and Yoshikawa concealed the true ownership of a common stock on five occasions to prevent the firm from falling below its minimum required net capital. Furthermore, in an attempt to reduce the risk of, or to prevent the firm from experiencing net capital difficulties, the firm and Yoshikawa sold the stock from the firm's inventory account to two accounts at the firm owned by Yoshikawa, and shortly thereafter repurchased the stock into the firm's inventory account at an agreed upon time and at essentially the same terms.

Ko Securities, Inc., has appealed this action to the U.S. Court of Appeals and the sanctions are not in effect pending consideration of the appeal.

Firms Fined, Individuals Sanctioned

Global Equities Group, Inc. (New York, New York) and **Michael Henry Christ (Registered Principal, Lynbrook, New York)** submitted an Offer of Settlement pursuant to which they were censured and fined \$40,000, jointly and severally, and the firm was fined an additional \$10,000. Christ was suspended from association with any NASD member in any capacity for 10 business days.

and required to requalify by exam as a general securities principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm failed to report or to report accurately transactions to the Automated Confirmation Transactions SystemSM (ACTSM) in violation of applicable securities laws and regulations regarding trade reporting.

In addition, the NASD found that the firm, acting through Christ, failed to report to the NASD statistical and summary information relating to written customer complaints received by the firm, permitted an individual to perform duties as a registered person while the individual's registration status was deemed to be inactive, failed to maintain books and records to demonstrate compliance with the NASD Continuing Education rules, and failed to implement, maintain, and enforce a supervisory system that was reasonably designed to achieve compliance with the NASD's rules to detect and prevent the above violations.

Greater Metropolitan Investment Services, Inc. (Mendham, New Jersey) and **James T. Patten (Registered Principal, Bernardsville, New Jersey)** were fined \$55,000, jointly and severally. Patten was censured and fined \$175,000 individually, suspended from association with any NASD member as a registered representative for one year, and suspended in a principal capacity for two years. In addition, Patten must not associate with any NASD member in any capacity until he requalifies by exam. The NAC affirmed the sanctions following appeal of a Market Regulation Committee decision. The sanctions were based on findings that Patten intentionally reported fictitious and substantive transactions to The Nasdaq Stock MarketSM (Nasdaq[®]) at or near the close of the

market in order to affect the closing price of the securities. In addition, Patten effected transactions between accounts that he owned and controlled which involved no change in beneficial ownership, and published and circulated reports of purchase and sale transactions which he knew or should have known were non-bona fide. Furthermore, the firm and Patten violated the firm's restriction agreement with the NASD by effecting more than an occasional transaction per month in the firm's investment account without obtaining prior approval to modify the agreement and failed to enforce supervisory procedures to detect and deter marking the close activity.

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

Firm And Individual Fined ProEquities, Inc. (Birmingham, Alabama) and **Nancy C. Alcorn (Registered Principal, Birmingham, Alabama)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were censured and fined \$15,000, 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 Alcorn, failed to enforce and maintain adequate supervisory procedures to ensure compliance with the NASD's Continuing Education requirements, and allowed three individuals to maintain their representative registrations with the firm although the individuals were not actively engaged in the securities business of the firm. The findings also stated that the firm, acting through Alcorn, allowed an individual to effect transactions in customers' accounts when he was not properly registered with the NASD.

Firms Fined

Deutsche Morgan Grenfell/C.J. Lawrence, Inc. (New York, New York) submitted an Offer of Settlement 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 timely and accurately report to ACT Nasdaq and Over-The-Counter securities. The findings also stated that the firm failed to establish, maintain and enforce adequate written supervisory procedures with respect to its trade reporting.

East Shore Partners, Inc. (Melville, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which it was censured, fined \$12,500, and required to immediately revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it received and executed short sale orders without making an affirmative determination and executed an order for shares of stock incorrectly marked as a long sale order instead of a short sale order. The findings also stated that the firm failed to establish, maintain, and enforce adequate written supervisory procedures.

H. J. Meyers & Company, Inc. (Rochester, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$16,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting and limit orders. Furthermore, the NASD found that the firm failed to establish, maintain, and enforce written supervisory procedures designed to

achieve compliance with the applicable securities laws and regulations regarding the limit order protection interpretation and trade reporting.

Morgan Stanley & Company, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$26,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting and limit orders. Furthermore, the NASD found that the firm failed to establish, maintain, and enforce adequate written supervisory procedures.

Piper Jaffray, Inc. (Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured, fined \$13,300, required to remit \$7,597 in profits, and required to undertake to immediately revise its written supervisory procedures relating to the short sale and Small Order Execution SystemSM (SOESSM) rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report short sale transactions to ACT and executed short sale transactions at or below the inside bid in violation of applicable securities laws and regulations regarding trade reporting and limit orders. Furthermore, the NASD found that the firm failed to establish, maintain, and enforce adequate written supervisory procedures.

Sutro & Company, Inc. (San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was censured and fined \$17,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of finding

that it reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting and limit orders. Furthermore, the NASD found that the firm failed to establish, maintain and enforce adequate written supervisory procedures.

Individuals Barred Or Suspended

Jerard Basmagy (Registered Principal, Middletown, New Jersey) 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 all principal capacities for six months, and ordered to requalify by exam as a general securities principal. Without admitting or denying the allegations, Basmagy consented to the described sanctions and to the entry of findings that, in connection with his member firm's participation in public offerings, distributions of common stock, and financial and underwriting activities, Basmagy failed to establish, implement, maintain, and enforce adequate supervisory procedures.

Howard Berger (Registered Principal, Roslyn Heights, 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 business days. Without admitting or denying the allegations, Berger consented to the described sanctions and to the entry of findings that he, acting on behalf of a member firm, permitted a registered person to perform duties while his registration status was inactive due to his failure to timely complete an NASD Continuing Education requirement. The findings also stated that Berger, acting on behalf of a member firm, failed to report to the NASD statistical and summary information relating to customer com-

plaints received by the firm, and failed to adopt, maintain, and enforce adequate written supervisory procedures and systems.

Otto M. Bruun (Registered Representative, Marysville, Washington) was censured and barred from association with any NASD member in any capacity. The NBCC affirmed the sanctions following appeal of a Seattle District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Bruun submitted a false reimbursement claim to his member firm, received a check for \$6,095, and retained the funds.

George C. Bryant, II (Registered Representative, Bridgeport, Connecticut) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$1,000,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bryant consented to the described sanctions and to the entry of findings that he misappropriated \$259,800 in funds from the account of a public customer. According to the findings, checks were drawn on the customer's account. Bryant requested that he be allowed to hand-deliver these checks to the customer. Instead, they were deposited into Bryant's personal checking account.

Martin J. Cunnane, Jr. (Registered Representative, Woodside, New York) was censured, fined \$40,000, and suspended from association with any NASD member in any capacity for three years. The SEC affirmed the sanctions following appeal of a March 1997 NBCC decision. The sanctions were based on findings that Cunnane opened accounts for public customers without authorization and effected unauthorized trades in each account.

David Alan Dunn (Registered Principal, Bellevue, Nebraska) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for three years. Without admitting or denying the allegations, Dunn consented to the described sanctions and to the entry of findings that he recommended and executed securities transactions for a public customer without a reasonable basis for believing the transactions were suitable for the customer in view of the nature and size of the investments and the customer's financial situation and needs. The findings also stated that Dunn participated in private securities transactions without obtaining written approval from his member firm.

Richard J. Eaton (Registered Representative, West Chester, Pennsylvania) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Eaton consented to the described sanctions and to the entry of findings that he effected the sale of stock from the accounts of public customers and caused his member firm to issue drafts totaling \$20,028.72 against the accounts without the prior request or authorization of the customers. The findings also stated that Eaton failed to deliver the drafts to the customers, endorsed the drafts over to himself, and deposited the drafts into his bank account without the prior authorization or consent of the customers.

Ludwig Jay Eisenkramer (Registered Representative, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member

in any capacity for 15 business days. Without admitting or denying the allegations, Eisenkramer consented to the described sanctions and to the entry of findings that he exercised discretionary power and effected transactions in the account of a public customer without obtaining prior written authorization from the customer and acceptance of the discretionary account from his member firm.

James D. Forrest (Registered Representative, Colleyville, Texas) 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, Forrest consented to the described sanctions and to the entry of findings that he withdrew \$34,260.73 from a public customer's mutual fund and converted the funds to his own use and benefit without the customer's knowledge or consent. The findings also stated that Forrest induced a customer to purchase a variable life insurance policy by using the cash value of an existing policy and providing the customer with an insurance update form that contained omissions and misrepresentations regarding the anticipated yield and value of the policies.

Furthermore, the NASD found that Forrest induced a customer to withdraw \$38,000 from an existing variable annuity and to invest those funds in a single premium fixed annuity, and failed to disclose that there was a surrender charge associated with the withdrawal from the annuity. The NASD also determined that Forrest induced a customer to purchase shares of a trust fund by misrepresenting that the dividends from the fund would be adequate to pay the premiums for an existing life insurance policy.

Dennis J. Funny (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 Funny failed to respond to NASD requests for information.

Mark Michael Furman (Registered Representative, Pompano Beach, Florida) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Furman participated in private securities transactions and failed to notify his member firm of such transactions. Furman also failed to respond to NASD requests for information.

Stephen J. Gluckman (Registered Representative, Los Angeles, California) was censured, fined \$55,000, and barred from association with any NASD member in any capacity. The NBCC affirmed the sanctions following appeal of a Los Angeles DBCC decision. The sanctions were based on findings that Gluckman participated in private securities transactions without providing written notice to his member firm prior to participating in such transactions.

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

Howard Gostfrand (Registered Principal, Aventura, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Gostfrand consented to the described sanctions and to the entry of findings that he made misrepresentations to a public customer to discourage the customer

from selling shares of stock from the account over which he had trading authority.

Stephen R. Hardage (Registered Representative, Costa Mesa, California) was censured, fined \$41,000, suspended from association with any NASD member in any capacity for 30 days, ordered to pay \$152,000 in restitution to a public customer, and required to requalify by exam as a general securities representative. The sanctions were based on findings that Hardage recommended to a public customer purchases of highly speculative oil and gas limited partnerships without having reasonable grounds for believing that they were suitable for the customer in view of her investment objectives, financial situation, circumstances, and needs.

Hardage's suspension began November 17, 1997, and concluded December 16, 1997.

Charles M. Hollis (Registered Representative, Spartanburg, South Carolina) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$90,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hollis consented to the described sanctions and to the entry of findings that he changed the address of record of an insurance policy he sold to a public customer, secured a \$18,000 loan against the policy without the customer's knowledge or authorization, and converted the proceeds of the loan to his own use and benefit.

Dell R. Hughes (Registered Representative, Broken Arrow, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$5,000, suspended from association with any NASD member in any capacity for one week, and

required to requalify by exam as an investment company and variable contracts products representative. Without admitting or denying the allegations, Hughes consented to the described sanctions and to the entry of findings that, in connection with a public customer's purchase of a variable annuity product, he provided a document that contained misleading information. According to the findings, the document stated that the customer's initial deposit of \$83,229.61 in the variable annuity would grow to approximately \$166,000.00 by the end of five years.

John Richard Huntebrinker (Registered Principal, Wildwood, Missouri), Patrick Michael Kelly (Registered Representative, Highlands Ranch, Colorado), and David Keith VanHouten (Registered Principal, Denver, Colorado) submitted Offers of Settlement pursuant to which Huntebrinker was censured, fined \$12,000, and suspended from association with any NASD member in any principal capacity for one year. Kelly was censured, fined \$1,000, and suspended from association with any NASD member in any capacity for five days. VanHouten was censured, suspended from association with any NASD member in any capacity for 90 days, and barred from association with any NASD member in any principal capacity. In addition, VanHouten must pay \$75,000 in restitution to public customers and submit to additional supervision by his member firm for six months following the suspension. Thereafter, VanHouten and his member firm must submit a report to the NASD detailing the additional supervision over VanHouten's activities.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Huntebrinker, Kelly, and VanHouten, in connection with the purchase of recommended

securities by public customers, employed devices to defraud customers by recommending and urging customers to buy speculative securities by making baseless price predictions and predictions of returns. The findings also stated that the respondents engaged in improper conduct inconsistent with just and equitable principles of trade, intentionally employed devices to defraud customers by making untrue statements of material facts, and recommended that customers purchase and hold securities without a reasonable basis.

VanHouten's suspension will begin May 18, 1998, and will conclude August 14, 1998.

Frank J. Kelly (Registered Representative, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$257,165.80, barred from association with any NASD member in any capacity, and required to pay \$37,841.45 in restitution to a member firm. Without admitting or denying the allegations, Kelly consented to the described sanctions and to the entry of findings that he falsified insurance applications on behalf of individuals and submitted the forms to his member firms for the purpose of obtaining commission payments. Furthermore, in the course of the scheme to defraud, the NASD found that Kelly forged an individual's signature without the person's knowledge, consent, or authorization. The findings also stated that Kelly failed to respond to NASD requests for information.

Michael S. Kerr (Registered Representative, Phoenix, Arizona) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Kerr consented to the described sanctions and to the entry of findings

that he misrepresented to a public customer the amount of loss incurred on the sale of a municipal security. The findings also stated that Kerr made misrepresentations to a customer regarding sales charges on the redemption and purchase of mutual funds.

Thomas J. Krizek (Registered Representative, Commack, 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 Krizek failed to respond to NASD requests for information.

Donald James Kuehne (Registered Representative, Los Angeles, California) 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, Kuehne 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 Kuehne failed to fully respond to NASD requests for information.

Tammy S. Kwikkel-Elliott (Registered Representative, Jackson, Missouri) was censured, fined \$5,000, and barred from association with any NASD member in any capacity. The NBCC imposed the sanctions following appeal of a Kansas City DBCC decision. The sanctions were based on findings that Kwikkel-Elliott submitted a promotional materials reimbursement request form under false pretenses to her member firm and received reimbursement funds of \$879.60.

Dan Lee Lawrence (Registered Representative, San Marcos, California) 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. Without admitting or denying the allegations, Lawrence consented to the described sanctions and to the entry of findings that he failed to provide written notification to his member firms that he was opening an account with another firm, and failed to notify the executing firm of his association with the member firms.

Gregory Scott LeSavoy (Registered Representative, Concord, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, LeSavoy consented to the described sanctions and to the entry of findings that he recommended and effected for the account of a public customer purchases and sales of securities without reasonable basis for believing that the transactions were suitable for the customer and without the prior knowledge or consent of the customer.

Stephen Frederick Lim (Registered Representative, Danville, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$8,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, Lim consented to the described sanctions and to the entry of findings that he exercised discretion in the account of a public customer without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm.

Christopher Mormando (Registered Representative, Staten Island, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, barred from association with any NASD member in any capacity, required to disgorge \$286 in commissions, and required to pay \$30,904 in restitution to public customers. Without admitting or denying the allegations, Mormando consented to the described sanctions and to the entry of findings that he executed transactions in the accounts of public customers without the prior knowledge, authorization, or consent of the customers.

James Pellizzi (Registered Representative, Melville, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$667,637.82, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Pellizzi 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. The findings also stated that Pellizzi failed to respond to NASD requests for information and to appear for an on-the-record interview.

Jose Santos Perez (Associated Person, Baltimore, Maryland) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Perez consented to the described sanctions and to the entry of findings that he provided his member firm with a false social security number so that his employment records were incorrect.

John L. Prokell (Registered Representative, Laguna Niguel, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$26,500, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Prokell consented to the described sanctions and to the entry of findings that he made untrue statements and omissions of material facts in connection with the purchase of securities. The findings also stated that Prokell recommended to a public customer the purchase of securities without having reasonable grounds for believing that they were suitable for the customer. Prokell also failed to respond to NASD requests for information.

Matthew Brian Proman (Registered Representative, Oceanside, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Proman 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. The findings also stated that Proman failed to respond to NASD requests to appear for an on-the-record interview or to respond to NASD requests for information.

James C. Rich (Registered Representative, Battle Creek, 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, Rich consented to the described sanctions and to the entry of findings that he forged variable annuity redemption request forms of a public customer and converted \$112,000 to his own use and benefit.

Donna R. Roach (Registered Principal, Murrieta, California) was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for 10 business days. The NBCC affirmed the sanctions following appeal of a Los Angeles DBCC decision. The sanctions were based on findings that Roach took possession and control of public customer checks totaling \$160,000 in connection with the sale of limited partnership interests and deposited the checks into a bank account that she controlled, thereby placing those funds at risk.

Arthur Lee Ruby (Registered Principal, Overland Park, Kansas) and **Robert Cavin McAlexander (Registered Principal, Ballwin, Missouri)** submitted Offers of Settlement pursuant to which Ruby was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for two years. McAlexander was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for 14 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Ruby employed devices to defraud public customers by recommending and urging customers to buy speculative securities through baseless price predictions and predictions of returns.

The NASD also determined that Ruby, in recommending and urging customers to purchase securities, engaged in improper conduct inconsistent with just and equitable principles of trade with respect to the transactions. The findings also stated that Ruby and McAlexander omitted or misstated material information in sales of securities to customers and failed to have a reasonable basis for their recommendations of these securities.

Kevin Michael Ruby (Registered Principal, New York, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for three years. Without admitting or denying the allegations, Ruby consented to the described sanctions and to the entry of findings that, in connection with purchases of recommended securities by public customers, Ruby made baseless price predictions and predictions of returns, and made untrue statements and omissions of material facts. The findings also stated that Ruby recommended that customers purchase securities without having a reasonable basis.

Robert L. Shatles (Registered Principal, Northport, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, jointly and severally with a member firm, and suspended from association with any NASD member in any principal capacity for 10 days. Without admitting or denying the allegations, Shatles consented to the described sanctions and to the entry of findings that Shatles, acting on behalf of a member firm, failed to establish, maintain, and enforce proper supervisory procedures governing the review and monitoring of customer complaints and incoming correspondence. The findings also stated that Shatles, acting on behalf of a member firm, failed to exercise reasonable and proper supervision over an individual.

Floyd Lee Shilanski (Registered Representative, Anchorage, Alaska) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$15,000, suspended from association with any NASD member in any capacity for five months, and required to requalify by exam for any capacity in which he has registered.

Without admitting or denying the allegations, Shilanski 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.

Valery Shtraykher (Registered Representative, New York, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,500, suspended from association with any NASD member in any capacity for three years, and subjected to special supervision for two years should he decide to associate with a member firm. Without admitting or denying the allegations, Shtraykher consented to the described sanctions and to the entry of findings that he made material misrepresentations and omissions to public customers regarding a stock. The findings also stated that Shtraykher failed to execute sell orders for customers, thereby imposing upon them unauthorized positions and failed to respond completely to an NASD request for information.

Paul A. Signorelli, Sr. (Registered Representative, Wall, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, fined \$250,000, barred from association with any NASD member in any capacity, and required to pay \$127,060 in restitution to a customer. Without admitting or denying the allegations, Signorelli consented to the described sanctions and to the entry of findings that he withdrew \$58,000 from the accounts of public customers, deposited the funds into the bank account of a business entity he established and controlled, and used the funds for his own use and benefit. The findings also stated that Signorelli received \$50,000 from a public customer for a trust fund and instead used the funds for his own use and benefit without the prior

knowledge, authorization, or consent of the customer.

Furthermore, the NASD determined that Signorelli failed to notify his member firm that he was engaging in the private practice of law, received \$16,560 from a public customer with the understanding that he would invest the funds in a company that Signorelli had dealt with on prior occasions, and instead deposited the funds into his personal checking account and used the funds for his own benefit. The NASD also found that Signorelli signed authorizations and notarized the signatures even though the signatures were not genuine and he was not qualified to act as a notary public. Signorelli also failed to update his Form U-4 to reflect criminal charges and submitted a Form U-4 that contained false and misleading information regarding the aforementioned arrest.

John C. Simonetti (Registered Principal, Ronkonkoma, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured, fined \$7,500, suspended from association with any NASD member in any principal capacity for six months, and ordered to requalify by exam as a general securities principal. Without admitting or denying the allegations, Simonetti consented to the described sanctions and to the entry of findings that, in connection with his member firm's participation in public offerings, distributions of common stock, and financial and underwriting activities, Simonetti failed to establish, implement, maintain, and enforce adequate supervisory procedures.

Mark Slakter (Registered Representative, Upper Saddle River, New Jersey) 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 11 months. Without admitting or denying the allegations, Slakter consented to the described sanctions and to the entry of findings that he prepared sales scripts that contained only positive information regarding the issuers and securities to which they related and failed to disclose any adverse news or description of risk factors. Furthermore, the scripts contained materially false and misleading information, improper price predictions, and inappropriate comparisons to other securities. The findings also stated that Slakter executed a Form U-4 that was false, failed to disclose his employment with two member firms, and misrepresented his position with a non-securities related business.

Slakter's suspension began March 30, 1998, and will conclude June 29, 1999.

Marc Gruntwagin Swensen (Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam as a trader. Without admitting or denying the allegations, Swensen consented to the described sanctions and to the entry of findings that Swensen, acting through member firms, effected transactions in securities at prices that were unfair and unreasonable.

Swensen's suspension began March 16, 1998, and concluded April 14, 1998.

Charles W. Tanner, Jr. (Registered Representative, Butler, Pennsylvania) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam for any

capacity in which he is to be registered upon the conclusion of the suspension. Without admitting or denying the allegations, Tanner consented to the described sanctions and to the entry of findings that he affixed signatures purporting to be that of the customers to receipts and insurance applications without their prior authorization or consent. The findings also stated that Tanner sent to a public customer a letter inaccurately describing her variable insurance policy as being a savings account and life insurance contract and made specific projections of future value without having a reasonable basis for such projections. Furthermore, the NASD determined that Tanner removed a page from an insurance policy issued to a customer and failed to deliver the remainder of the policy.

Aaron Joseph Tapia (Registered Representative, Staten Island, New York) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Tapia arranged to have an impostor take the Series 7 exam on his behalf. Tapia also failed to respond to NASD requests to appear for an on-the-record interview.

Giuseppe Temperino (Registered Representative, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to disgorge \$259,117.23 in commissions. Without admitting or denying the allegations, Temperino 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. The findings also stated that Temperino failed to appear for an on-the-record interview.

Michael Trocchio (Registered Representative, Staten Island, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, barred from association with any NASD member in any capacity, required to disgorge \$250 in commissions, and required to pay \$26,305.50 in restitution to customers. Without admitting or denying the allegations, Trocchio consented to the described sanctions and to the entry of findings that he executed securities transactions in the accounts of public customers without the prior knowledge, authorization, or consent of the customers. The findings also stated that Trocchio failed to follow customers' instructions to sell securities.

Robert L. Wallace (Registered Principal, Naples, Florida) was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 60 days. The NBCC imposed the sanctions following appeal of an Atlanta DBCC decision. The sanctions were based on findings that Wallace caused an advertisement that contained misleading, unwarranted, and exaggerated statements to be published in a newspaper.

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

Bruce David Warshaw (Registered Representative, New York, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$810,000 in restitution. Without admitting or denying the allegations, Warshaw consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide prior written notice to, or receive the

approval of, his member firm to engage in these transactions. The findings also stated that Warshaw failed to exercise due diligence in connection with the offer of sales of securities to ascertain the financial status of the stock, including, but not limited to, its assets, liabilities, and net worth. Furthermore, the NASD determined that Warshaw recommended and effected the purchase of securities for public customers without having a reasonable basis for making the recommendations based upon their other security holdings, financial situation, and needs.

Keith Youngswick (a/k/a Keith Young) (Registered Representative, Great Neck, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$56,900, barred from association with any NASD member in any capacity, and ordered to pay \$34,500 in restitution to customers. Without admitting or denying the allegations, Youngswick consented to the described sanctions and to the entry of findings that he made fraudulent and material misrepresentations and material omissions to public customers in order to induce the customers to purchase stock in a private placement offering. The findings also stated that Youngswick solicited customers to purchase securities when the customers did not qualify in the placement offering under state securities laws and were in violation of the Blue Sky laws.

Individual Fined

Harris Felsen (Registered Representative, Coral Springs, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was censured and fined \$13,000. Without admitting or denying the allegations, Felsen consented to the described sanctions and to the entry of findings that he purchased shares of stock that traded at a pre-

mium in the immediate aftermarket, in contravention of the NASD Board of Governors' Free-Riding and Withholding Interpretation. The findings also stated that Felsen failed to provide written notification to his member firms that he was opening an account with another firm and failed to provide written notification to the executing firms of this association with the member firms prior to opening the account.

Decisions Issued

The following decisions have been issued by the DBCC and have been appealed to the NAC as of February 27, 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*.

Harry Gliksman (Registered Principal, Beverly Hills, California) was censured, fined \$25,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam as a general securities representative. The sanctions were based on findings that Gliksman recommended to a public customer the purchase of securities without having reasonable grounds for believing that the recommendations were suitable for the customer.

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

Keith L. Mohn (Registered Representative, West Bloomfield, Michigan) was censured, fined \$52,222, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Mohn participated in private securities transactions while failing to

give written notice to his member firm of his intention to engage in such activities.

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

Jere Thomas Wickert (Registered Principal, Chicago, Illinois) was censured, fined \$9,000, and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Wickert recommended and effected index options transactions in customers' accounts in the absence of a reasonable basis for believing that the recommendations were suitable for the customers in light of their investment objectives, experience, financial situations, or needs.

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

Louis A. Williams (Registered Representative, Tucson, Arizona) was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for six months. The sanctions were based on findings that Williams executed transactions in the accounts of public customers pursuant to implied oral discretionary authority without obtaining written discretionary authority from the customers or written acceptance of the accounts as discretionary by his member firm. In addition, Williams failed to submit correspondence to his member firm for review, preventing the firm from fulfilling its regulatory obligation. Furthermore, Williams prepared order tickets for transactions in customer accounts that contained information he knew to be false.

Williams 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.

James M. Dean (Registered Representative, Atlanta, Georgia) was named as a respondent in a complaint alleging that he forged a public customer's signature on a letter purporting to direct the firm to: withdraw \$15,000 from the customer's investment in a private placement, deposit those funds in a securities account that Dean controlled at another broker/dealer, and pay a portion of the money to Dean as "a non-interest bearing loan." Subsequently, Dean withdrew additional amounts from that account and converted the money to his own use and benefit.

The complaint also alleges that Dean deposited into his own securities account \$25,000 from a customer that was intended to be invested in a private placement. Subsequently, Dean converted a portion of those funds to his own use and benefit. In addition, Dean failed to advise his member firm that he opened an account with another firm, and failed to provide written notification to the executing firm of his association with the member firm. Furthermore, the complaint alleges that Dean failed to respond to NASD requests for information.

Fiero Brothers, Inc. (New York, New York), Falcon Trading Group, Inc. (Boca Raton, Florida), Sovereign Equity Management Corp. (Boca Raton, Florida), John Fiero (Registered Principal, Jersey City, New Jersey), Steven Carlson (Registered Principal, Denver, Colorado), and Glen Vittor (Registered Principal, Boca Raton, Florida) have been charged with manipulation, violation of rules relating to short sales, and violating standards of commercial honor and just and equitable principles of trade. The complaint alleges that, during January and February 1995, they engaged in a manipulative "bear raid" to drive down the price of 10 Nasdaq securities. The complaint also alleges that the respondents engaged in short selling in proprietary accounts without making the requisite affirmative determination that the stock could be borrowed.

Darren Ginas (Registered Representative, East Islip, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omitted to disclose material information about securities in which he was soliciting transactions and that he made predictions concerning the future price of securities without having a reasonable basis in connection with securities transactions.

Emmanuel Alexander Lagpacan (Registered Representative, Walnut Creek, California) was named as a respondent in an NASD complaint alleging that he sold mutual funds, government securities, and annuities to customers, then used the proceeds to purchase real estate in the name of, and to pay the expenses of, a corporation which Lagpacan controlled. In addition, the complaint alleges that Lagpacan sold fictitious certificates of deposit to a customer and misappropriated the proceeds from those sales to other

uses. Finally, the complaint alleges that Lagpacan failed to respond to NASD requests for information.

Mario Maurice Shane (Registered Representative, Mountain View, California) 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 knowledge and consent.

Michael D. Shaw (Registered Principal, Tampa, Florida) was named as a respondent in a complaint alleging he executed, or caused to be executed, the purchase of 1,000 units of stock in the account of a public customer without the prior knowledge, authorization, or consent of the customer.

Firm Expelled For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations
Atlanta One n/k/a Michael & Co.,
Irvine, California

Firms Suspended

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

Bondnet Brokerage, Inc.,
Greenwich, Connecticut
(March 3, 1998)

Chinese & American Investments, Inc.,
New York, New York (March 3, 1998)

Emerald Securities, L.L.C.,
Houston, Texas (March 3, 1998)

Lacroix Alexander Financial Corporation,
Newport Beach, California
(March 3, 1998)

NHP Real Estate Securities, Inc.,
Washington, DC (March 16, 1998)

Westhagen & Westhagen, Inc.,
Ripon, Wisconsin (March 3, 1998)

WR Lazard, Laidlow, Inc.,
New York, New York (March 3, 1998)

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

Brian Altongy,
Leominster, Massachusetts

John S. Claudino,
Brooklyn, New York

Richard E. Epstein,
Boca Raton, Florida

Marian S. Gargano,
Atlantic City, New Jersey

Steven W. Martin,
Whitehouse, Texas

Kevin M. McCarthy,
Irvine, California

Individuals Whose Registrations Were Canceled/Suspended Pursuant To NASD Rule 9622 For Failure To Pay Arbitration Award

Michael Lipkin,
New York, New York

Joseph Anthony Monaco,
Brooklyn, New York

NASD Regulation Levies Largest Advertising Fine Ever; Fundamental Service Corp. And Two Senior Executives Sanctioned

NASD Regulation announced that it has fined Fundamental Service Corporation, Inc., and two senior executives a total of \$125,000 for distributing more than one million copies of false and misleading advertising materials to investors nationwide in connection with the sale of one of its proprietary no-load mutual funds. This is the largest fine ever assessed by NASD Regulation in a case where the violations stem primarily from advertising and sales materials.

Fundamental, which neither admitted nor denied NASD Regulation's findings, was also sanctioned for making misrepresentations to NASD Regulation's Advertising/Investment Companies Regulation Department. As part of the settlement, Fundamental must pre-file all of its advertising and sales literature with NASD Regulation for three years. The firm must retain, at its own expense, an outside consultant to review its procedures for two years.

The firm's Vice President, Vincent J. Malanga, was fined \$100,000 jointly with Fundamental; suspended for 30 days in all capacities; and required to re-take certain qualification examinations. He has also agreed not to apply for registration as a general securities principal for three years. Fundamental's head of marketing, David P. Wieder, was fined \$25,000 and suspended for 30 days in all capacities. He has also agreed not to apply for registration as a general securities principal as long as he remains associated with Fundamental. Wieder was also sanctioned for making misrepresentations to NASD Regulation's Advertising/Investment Companies Regulation Department. In their settlements, Malanga and

Wieder neither admitted nor denied NASD Regulation's findings.

NASD Regulation found that from October 1992 through December 1994, the firm, along with Malanga and Wieder, marketed Fundamental's U.S. Government Strategic Income Fund to hundreds of thousands of investors through direct mail advertising that dramatically overstated the fund's safety and stability; omitted important risk disclosure and information on potential volatility; and materially misrepresented the nature of the portfolio.

Marketing materials emphasized the fund's ability to offer high yields with maximum safety. In fact, the portfolio was comprised of risky and potentially volatile interest rate-sensitive securities, including mortgage-backed derivatives such as inverse floaters. The fund also used financial techniques, such as borrowing against its own assets and hedging strategies, that added to the overall risk of the portfolio. By the end of 1994, the fund lost more than 25 percent of its net asset value as a result of rising interest rates and the fund's own volatile portfolio and aggressive investment strategies.

The advertising and sales materials included misleading statements such as: "So, for once you don't have to sacrifice high yields for peace of mind" and "playing it safe was never so rewarding."

NASD Regulation also found that in certain cases, Fundamental, Malanga, and Wieder failed to file required advertising and sales materials with NASD Regulation. They also failed to establish, maintain, and enforce adequate supervisory procedures.

"With more new investors in the securities markets today than ever before, it's especially important that advertising and sales materials be

accurate and complete. Fully 88 percent of all investors now own shares in one or more mutual funds, up from 60 percent in 1990. As a result, it's essential to the integrity of the marketplace that the information investors receive be accurate and complete," said Mary L. Schapiro, NASD Regulation President.

All NASD-registered brokerage firms must comply with NASD rules that require brokerage firm-distributed advertising and sales materials to be accurate and not misleading. NASD Regulation also reviews—either before or immediately after its first use— mutual fund advertising and sales materials produced by brokerage firms.

Fundamental, based in New York City, distributes fixed income mutual funds. The firm markets its products primarily through advertising and sales materials.

NASD Regulation Issues Complaint Against VTR Capital Inc. And Three Individuals; Market Manipulation And Illegal Profits Of \$400,000 Alleged

NASD Regulation announced it has issued a complaint against VTR Capital, Inc., and three individuals alleging fraud in connection with the unregistered distribution and fraudulent manipulation of Interiors, Inc., common stock, resulting in more than \$400,000 in illegal profits.

The complaint names VTR's President and sole owner at the time of the allegations, Edward J. McCune; a trader at IAR Securities Corp. (formerly known as I. A. Rabinowitz & Co.), Howard R. Perles; and a trader at Wien Securities Corp., Laurence M. Geller. NASD Regulation does not allege that Interiors (which was not named in the complaint) knew that the price of its shares was being manipulated.

The complaint alleges that in April 1995, VTR and McCune agreed to serve as financial consultants for Interiors to assist the company in selling 300,000 shares, or 28 percent of the company's outstanding common stock. On April 18, 1995, five short-term investors, including VTR's outside counsel, agreed to purchase all 300,000 shares at \$.93 per share. The five investors did not immediately sell their holdings to VTR.

The complaint then alleges that in manipulative trading from April 19 through April 21, VTR artificially raised Interiors' price per share by more than 100 percent to above \$2 per share. During this period, VTR sold to about 100 investors, shares of Interiors that it did not have in its inventory. VTR planned to cover this short position by purchasing the shares in a pre-arranged transaction with the five investors at \$.95 to \$.98 per share. NASD Regulation also alleges that VTR used high-pressure sales tactics, including cold calling, to sell the stock to investors once it reached the \$2 level.

Federal securities laws require brokerage firms to register with the SEC whenever they distribute a large number of shares to the general public. In this case, NASD Regulation alleges that VTR made its distribution illegally because it did not register those shares with the SEC.

Furthermore, the complaint alleges that VTR and McCune artificially inflated Interiors' reported trading volume by 42 percent through fraudulent circular trading. In a circular trading scheme, sell orders are entered by a broker who knows that offsetting buy orders for the same number of shares at the same time and for the same price either have been or will be entered. These trades do not represent a real change in the beneficial ownership of the security.

According to the complaint, Perles and Geller made it possible for the circular trading to occur by exchanging Interiors' shares with VTR and McCune. NASD Regulation also alleges that VTR and McCune made more than \$400,000 in illegal profits as part of this scheme.

At the time of the alleged violations, VTR (which is based in New York City) employed about 70 brokers. The firm is a full-service broker/dealer.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because this complaint is unadjudicated, you may wish to contact the respondents before drawing any conclusion regarding the allegations in the complaint.

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

Daiwa Securities America To Pay Fine And Restitution

NASD Regulation announced that Daiwa Securities America Inc., has been fined \$100,000 and has paid at least \$590,000 in restitution and interest to two American institutional customers who were overcharged on the purchase and sale of Japanese securities traded on the Tokyo and Osaka Stock Exchanges. The firm was also censured.

Former Daiwa Vice President Kenji Sasaki—the broker for the two customers—was suspended from the brokerage industry for two years,

fining \$35,000, and censured. Daiwa Securities America, a U.S. broker/dealer regulated by the NASD, is a wholly-owned subsidiary of Daiwa Securities Co., Ltd., based in Tokyo.

Daiwa, which neither admitted nor denied NASD Regulation's findings, was sanctioned for violating anti-fraud and compensation disclosure rules. Sasaki, who also neither admitted nor denied the allegations, was sanctioned for violating the antifraud rules, as well as aiding and abetting Daiwa's violations. Sasaki settled with NASD Regulation following the filing of an October 1997 complaint.

NASD Regulation began its investigation of Daiwa and Sasaki in July 1996, shortly after receiving an internal Daiwa memorandum, which Sasaki wrote, outlining the overcharging scheme. NASD Regulation found that, from July 1987 to December 1991, Daiwa's Los Angeles branch office told these customers that their buy orders had been executed at a price higher than the actual purchase price, and their sell orders had been executed at a price lower than the actual sale price. The firm kept the undisclosed difference as "secret profits." These profits were in addition to the disclosed commissions that Daiwa had agreed to charge for the purchase and sale of the securities on the Tokyo and Osaka Stock Exchanges.

Specifically, NASD Regulation found that the Los Angeles branch office—which closed in August 1995—reported either higher or lower executions in approximately 265 out of 570 transactions, resulting in \$306,000 in illicit profits. Sasaki was found to have personally handled 244 of the 265 transactions.

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