

DISCIPLINARY ACTIONS

Disciplinary Actions Reported For October

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions will begin with the opening of business on Monday, October 20, 1997. The information relating to matters contained in this *Notice* is current as of the end of September 22.

Firms Fined, Individuals Sanctioned

Gilbert Marshall & Company, Inc. (Greeley, Colorado) and **Michael A. Usher (Registered Principal, Greeley, Colorado)** submitted an Offer of Settlement pursuant to which they were fined \$15,000, jointly and severally, and Usher was suspended from association with any NASD member in any principal capacity, excluding the capacities of financial and operations principal and registered options principal, for six months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Usher, settled customer complaints with a settlement agreement that contained an agreement by the customer not to initiate or pursue any regulatory complaint. The NASD also determined that Usher failed to provide accurate and truthful information in response to NASD requests for information.

Investment Management & Research, Inc. (St. Petersburg, Florida) and **Kenneth Craig Krull (Registered Representative, Marysville, Washington)**. The firm was fined \$10,000, required to submit satisfactory written supervisory procedures to the NASD, and required to pay \$42,785.21 in restitu-

tion to customers. Krull was fined \$20,000, barred from association with any NASD member in any principal or supervisory capacity, suspended from association with any NASD member in any capacity for one year, required to pay \$171,140.93 in restitution to customers, and required to requalify by exam as a general securities representative. The National Business Conduct Committee (NBCC) imposed the sanctions following appeal of a Seattle District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Krull recommended unsuitable mutual fund switches in the accounts of public customers without having reasonable grounds for believing that such transactions were suitable for the customers in view of the frequency of the transactions, the type of transaction being recommended, and the customers' financial situations, circumstances, and needs. The firm failed to ensure that Krull's sales activities were adequately reviewed and monitored to ensure those sales activities were not in contravention of the NASD's Rules. Furthermore, the firm also failed to have supervisory procedures that were reasonably designed to detect mutual funds switches in Krull's branch office.

Krull has appealed this action to the Securities and Exchange Commission (SEC) and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Firms And Individuals Fined
Chesapeake Securities Research Corporation (Towson, Maryland) and **Thomas T. Taylor (Registered Principal, Towson, Maryland)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents

consented to the described sanction and to the entry of findings that the firm, acting through Taylor, conducted a securities business while failing to maintain its minimum required net capital. The findings also stated that the firm, acting through Taylor, conducted offerings of limited partnership interests, failed to return customer funds when the terms of the contingency were not met, and extended the termination date and lowered the offering contingency when there were no current offering documents or documented subscriber approval for a continuation of the offering. Furthermore, the NASD found that the firm, acting through Taylor, failed to obtain subscription agreements from subscribers and failed to obtain signed copies of amendments to the offering from investors. Moreover, the NASD determined that the firm, acting through Taylor, failed to maintain a checks received and delivered blotter.

Excel Financial, Inc. (Salt Lake City, Utah) and Gary R. Beynon (Registered Principal, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$20,000, jointly and severally. The firm also shall provide to the NASD, with respect to private placements of securities for which it functions as the sole or lead placement agent, an opinion of counsel that the offering was made in conformity with all applicable provisions of the federal securities laws and regulations promulgated thereunder, and Beynon was 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, acting through Beynon, participated in a private placement offering and failed to return investors' funds when the terms of the contingency offering were not met. The NASD also deter-

mined that the firm, acting through Beynon, conducted a securities business while failing to maintain its minimum required net capital.

First Analysis Securities Corporation (Chicago, Illinois) and Janet Irene Lloyd (Registered Principal, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were 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 Lloyd, allowed an individual to be involved in the banking and securities business of the firm despite the fact the individual was not registered with the NASD and had failed to complete the regulatory element of the NASD's Continuing Education Program. The findings also stated that the firm, acting through Lloyd, failed to establish and maintain adequate written supervisory procedures with respect to the NASD's Continuing Education Program.

L. B. Saks, Inc. (New York, New York) and Victor J. Puzio (Registered Principal, Rutherford, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Puzio, conducted a securities business while failing to maintain its minimum required net capital.

Shamrock Partners, Ltd. (Media, Pennsylvania) and James T. Kelly (Registered Principal, Newtown Square, Pennsylvania) were fined \$15,000, jointly and severally, and required to pay \$10,674.22 in restitution to customers, jointly and severally, demonstrate corrective action with regard to their mark-up and mark-

down policy, and submit to a staff interview. The NBCC affirmed the sanctions following appeal of a Philadelphia DBCC decision. The sanctions were based on findings that the firm, acting through Kelly, effected in a principal capacity purchases of common stock from public customers at prices that were not fair and reasonable in that the mark-downs on the purchases exceeded five percent.

The firm and Kelly have appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal.

Southern Farm Bureau Fund Distributor, Inc. (Jackson, Mississippi) and William H. Risher, Jr. (Registered Principal, Brandon, Mississippi) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$50,000, 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 Risher, maintained registrations for 197 individuals who were not actively engaged in the securities business of the firm. The findings also stated that the firm, acting through Risher, failed and neglected to exercise reasonable and proper supervision over its registered representatives, and failed and neglected to establish, maintain, and enforce supervisory procedures. Furthermore, the NASD determined that the firm, acting through Risher, failed and neglected to comply with the continuing education requirements of the NASD in that the firm did not prepare a needs analysis, or prepare a training program and procedures for implementing the regulatory or firm elements for continuing education.

Firms Fined

Charlotte S. Cohen & Company, Inc. (St. Louis, Missouri) submitted an Offer of Settlement pursuant to which the firm was fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it made erroneous computations in computing its special reserve requirement and contravened SEC Rule 15c3-3 by withdrawing funds from its special reserve account without an accompanying reserve computation upon which the withdrawal was based. The findings also stated that the firm conducted a securities business while failing to maintain its minimum required net capital and failed to prepare its books and records properly.

Herzog, Heine, Geduld, Inc. (Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$11,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it failed to contemporaneously execute customers' limit orders when obligated to do so. Furthermore, the NASD found that the firm failed to report an order entry identification to Automated Confirmation Transaction ServiceSM (ACTSM) and incorrectly reported third market transactions with the improper order entry/market maker designation by the "give up" reporting side executing dealer. The findings also stated that the firm failed to establish, maintain, and enforce adequate written supervisory procedures with respect to its limit order activity.

Needham & Company, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanction and to

the entry of findings that it was a registered market maker in securities, was presented orders at its published bid or offer, and failed to execute the orders, thereby failing to honor its published quotation. The findings also stated that the firm failed to maintain and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws and regulations concerning the SEC Firm Quote Rule and other related rules.

Troster Singer Corp., A Division of Spear, Leeds & Kellogg (Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it was a registered market maker in securities, was presented orders at its published bid or offer, and failed to execute the orders, thereby failing to honor its published quotation. The findings also stated that the firm failed to maintain and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws and regulations concerning the SEC Firm Quote Rule and other related rules.

Individuals Barred Or Suspended

Edwin Aponte (Registered Representative, Yonkers, New York) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Aponte consented to the described sanctions and to the entry of findings that he changed a public customer's address to Aponte's sister-in-law's address, forged the customer's name on a surrender of policy form, and received a \$565.74 check representing the surrender value of the customer's policy. The

NASD found that Aponte forged the customer's endorsement to the check, negotiated the check, and converted the funds for his own personal use. The findings also stated that Aponte failed to disclose on a Form U-4 that he was the subject of a consumer-initiated complaint.

John R. Atchley (Registered Representative, Belle Chasse, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two weeks (deemed served). Without admitting or denying the allegations, Atchley consented to the described sanctions and to the entry of findings that, at the request of a public customer, he deposited \$189,211.37 of the public customer's funds into his personal checking and securities accounts, used the funds to purchase bearer bonds on behalf of the customer, and in doing so, falsified his member firm's books and records in that he concealed the true identity of the purchaser of the bonds.

Glenn E. Backus (Registered Representative, Alexandria, Virginia) submitted an Offer of Settlement pursuant to which he was fined \$100,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Backus consented to the described sanctions and to the entry of findings that he recommended purchase and sales transactions to public customers without having reasonable grounds for believing such recommendations were suitable for the customers taking into consideration their other security holdings, financial situations, and needs and in view of the frequency and nature of the transactions and Backus' improper short selling and excessive use of margin in the customers' accounts. The findings also stated that Backus

executed unauthorized trades in a customer's accounts and improperly exercised discretion over customer accounts without their prior authorization. Furthermore, the NASD found that Backus failed to disclose to a customer the risks associated with trading on margin and short selling, and improperly misrepresented to the customer that the customer's monies were invested in municipal bonds when they were not.

Vincent E. Barborka (Registered Representative, Midvale, Utah) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$500,000, barred from association with any NASD member in any capacity, and required to pay \$97,592.33 in restitution to a customer. Without admitting or denying the allegations, Barborka consented to the described sanctions and to the entry of findings that he forged the signature of a public customer on several life insurance surrender forms, change of ownership forms, and loan request forms, and then forged the customer's signature on the checks issued as a result of the forged forms and endorsed the checks to himself. The NASD found that, as a result of this, Barborka converted at least \$97,592.33 to his control and used those monies for personal purposes.

Ira Warren Bassin (Registered Principal, Plainview, New York) submitted an Offer of Settlement pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Bassin consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information.

Mark A. Bavosa (Registered Representative, Boynton Beach, Florida) submitted an Offer of Settlement

pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bavosa consented to the described sanctions and to the entry of findings that he signed a customer's name to disbursement request forms and a disbursement check relating to an insurance policy owned by the customer without the customer's knowledge or authorization. The findings also stated that Bavosa failed to respond to an NASD request for information.

Charles Sung Beck (Registered Representative, Chino Hills, California) and **Paul Mitchell Curtis (Registered Representative, Los Angeles, California)**. Beck submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for eight months. In a separate decision, Curtis was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Beck consented to the described sanctions and to the entry of findings that Beck and Curtis participated in private securities transactions and failed to provide prior written notice to their member firms describing in detail the proposed transactions and their proposed role therein, and stating whether they had received or may receive selling compensation in connection with the transactions. Curtis also failed to respond to NASD requests for information.

Daniel Beimel (Registered Principal, New Kensington, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$100,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Beimel consented to the described sanctions and to the entry of findings that, in conduct

toward public customers, he disregarded his duty of fair dealing with customers and disregarded his duty to research securities recommended to customers. The NASD also found that Beimel misled the customers by making material misrepresentations, including priced predictions, and omitted material negative information during the offer, purchase, and sale of securities. Furthermore, the findings stated that Beimel effected transactions in securities for customers' accounts without their prior authorization or consent.

R. Scott Bennett (Registered Representative, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bennett consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Jeffrey D. Berkoff (Registered Representative, Jupiter, Florida) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Berkoff consented to the described sanction and to the entry of findings that he participated in outside business activities and failed to notify his member firm.

Miriam R. Black (Registered Representative, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and ordered to disgorge \$9,015 in commissions. Without admitting or denying the allegations, Black consented to the described sanctions and to the entry of findings

that she recommended and effected mutual fund switches for the accounts of five public customers that were not suitable based on their financial situation and needs.

Robert W. Campbell, Jr. (Registered Representative, Tucker, Georgia) was fined \$5,000, suspended from association with any NASD member in any capacity for six months, and ordered to requalify by exam as an investment company and variable contracts products representative. The sanctions were based on findings that Campbell signed the name of a public customer to an investor disclosure form without the customer's knowledge or authorization.

Peter Casali (Registered Representative, Bronx, New York) was fined \$30,000, barred from association with any NASD member in any capacity, and required to pay \$3,882.81 plus interest in restitution to a customer. The sanctions were based on findings that Casali received a \$4,400 check from a public customer intended as an insurance policy payment, deposited the check in a personal account, made an initial insurance payment of \$517.19, and converted the remaining \$3,882.81 for his own use and benefit. Casali also failed to respond to NASD requests for information.

James Anthony Contacessa (Registered Representative, Glen Head, New York) was fined \$50,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$239,835.95. The sanctions were based on findings that Contacessa arranged to have an impostor take the Series 7 exam on his behalf. Contacessa also failed to respond to NASD requests for information.

Harold Davlin (Registered Representative, Washington, D.C.) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$70,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Davlin consented to the described sanctions and to the entry of findings that he provided general subscriber information to other persons, which those persons subsequently used improperly to participate in a conversion of the mutual shares of a savings bank to the common stock of a holding company. The NASD found that these persons improperly executed stock order forms in the names of the actual depositors, participated in the conversion, and had the opportunity to profit when the trading of the common stock opened for secondary trading. The NASD determined that these persons provided two checks to Davlin totaling \$785.34, issued in the names of two bank depositors whose names were signed without their authorization, and that Davlin deposited the checks into his bank account for his own use and benefit. The findings also stated that Davlin failed to respond to an NASD request to appear for an on-the-record interview.

Dominick Salvatore DeLorenzo (Registered Representative, Brooklyn, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that DeLorenzo failed to respond to NASD requests for information.

Joseph F. DeSanto (Registered Principal, Hillsboro Beach, Florida) and **Robert B. DiMarco, Jr. (Registered Principal, Boca Raton, Florida)** submitted an Offer of Settlement pursuant to which they were fined \$60,000, jointly and severally, suspended from association with any NASD member in any principal or

supervisory capacity for three years, and required to requalify by exam as general securities sales representatives. In addition, DiMarco was suspended from association with any NASD member in any capacity for one year and DeSanto was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a member firm, acting through DiMarco and DeSanto, carried an inventory position, the value of which was greater than 50 percent of the firm's previous month's excess net capital by amounts ranging from approximately \$1.5 million to \$10.8 million, in violation of the firm's restrictive agreement.

Rene DeScartin (Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, DeScartin consented to the described sanctions and to the entry of findings that he forged policyholder signatures and misappropriated \$6,750.20.

James W. DiBella, Jr. (Registered Representative, Marlton, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, DiBella consented to the described sanctions and to the entry of findings that he recommended and effected the purchase of securities in the account of a public customer without having reasonable grounds to believe the recommendations were suitable for the customer. The findings also stated that, in inducing and effecting purchases, DiBella engaged in

deceptive and/or fraudulent devices or practices, made false and misleading statements of material facts, and/or failed to disclose material facts about the stock. Furthermore, the NASD determined that DiBella effected unauthorized transactions in a customer's account.

DiBella's suspension began September 15, 1997 and concludes October 14, 1997.

Michael R. Euripides (Registered Representative, Virginia Beach, Virginia) was fined \$5,000, required to pay \$15,488.92 plus interest in restitution, suspended from association with any NASD member in any capacity for 60 days, and required to requalify by exam as a general securities representative. The NBCC affirmed the sanctions following appeal of a Washington DBCC decision. The sanctions were based on findings that Euripides made unsuitable recommendations to a public customer regarding the purchase of stock, and made misrepresentations and omissions of material facts in the sale of securities to the customer. Euripides also executed unauthorized transactions in the account of a public customer.

Cameron Freeland Evans (Registered Representative, Manhattan Beach, California) was fined \$750,000, barred from association with any NASD member in any capacity, and ordered to pay \$150,000 in restitution to a public customer. The sanctions were based on findings that Evans converted \$150,000 from a public customer intended for investment purposes without the knowledge or consent of the customer.

Hubert L. Ford (Registered Representative, Wilmington, Delaware) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were

based on findings that Ford failed to respond to NASD requests for information.

Michael A. Furr (Registered Representative, Lake Forest, California) was fined \$270,000, barred from association with any NASD member in any capacity, and ordered to pay \$42,500 in restitution to a public customer. The sanctions were based on findings that Furr received \$50,000 from a public customer for investment purposes and failed to deposit the funds into a securities account. Instead, Furr deposited the funds into a bank account and improperly used the funds. Furr also failed to respond to NASD requests for information.

John Nicholas Giartonia, III (Registered Representative, Aurora, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$210,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Giartonia consented to the described sanctions and to the entry of findings that he received from public customers checks totaling \$22,000 intended for the purchase of a life insurance policy and for investment purposes. The NASD found that Giartonia cashed the checks, deposited the funds in an account in which he had a beneficial interest, and used the funds for some purpose other than for the benefit of the customers.

Robert E. Hines (Registered Representative, Brooklyn, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hines failed to appear and provide testimony and to respond to an NASD request for information.

Charles M. Hogan (Registered Representative, Winston-Salem, North Carolina) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any NASD member in any capacity for five business days and required to disgorge \$187.50 to the NASD. Without admitting or denying the allegations, Hogan consented to the described sanctions and to the entry of findings that he purchased shares of stock that traded at a premium in the immediate aftermarket in violation of the Board of Governors' Free-Riding and Withholding Interpretation. Furthermore, the NASD found that Hogan failed to notify his current member firm of the existence of an account with another member firm and failed to advise his former member firm that he had become associated with his current member firm.

Timothy P. Kelly (Registered Representative, Longwood, Florida) submitted an Offer of Settlement pursuant to which he was fined \$7,000, suspended from association with any NASD member in any capacity for 30 days, and further suspended until he requalifies by exam. Without admitting or denying the allegations, Kelly consented to the described sanctions and to the entry of findings that he functioned as a general securities representative, and made at least two sales of investment company securities to public customers when he was not registered with the NASD. The findings also stated that Kelly failed to disclose a four percent sales charge (front-end load) on the purchase of investment company securities to customers.

Alan Krouk (Registered Representative, Jamesburg, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any registered

capacity for five years. Without admitting or denying the allegations, Krouk consented to the described sanctions and to the entry of findings that he received funds from certain customers in payment of insurance policy premiums, and caused the funds to be applied and credited in payment of other customers' policies for which payment was due but had not been received. The NASD determined that thereafter, when funds were received from customers whose policies had been improperly credited, Krouk caused those customers' funds to be credited to policies of customers whose funds had been previously misapplied.

Alan J. LaCava (Registered Representative, Philadelphia, Pennsylvania) was fined \$15,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to requalify as a general securities representative. The sanctions were based on findings that LaCava recommended to public customers, and effected in their accounts, the purchases of securities without having reasonable grounds to believe that securities he recommended were suitable for the customers. Furthermore, the NASD determined that, in inducing and effecting the purchases, LaCava intentionally, recklessly, or negligently engaged in deceptive and/or fraudulent devices or practices, made false and misleading statements of material facts, and/or failed to disclose material facts. The findings also stated that LaCava effected unauthorized transactions in a customer's account.

Wade S. Lawson (Registered Representative, West Hollywood, California) was fined \$57,500, barred from association with any NASD member in any capacity, and required to pay \$100,000 in restitution to a public customer. The sanctions were based on findings that Lawson recommended and engaged in a private

securities transaction without prior written notice to and approval from his member firm. Furthermore, Lawson recommended and engaged in a purchase transaction on behalf of a public customer without having reasonable grounds for believing that this recommendation and the resultant transaction were suitable for the customer on the basis of his age, financial situation, objectives, and needs. Lawson also engaged in the sale of unregistered securities to a public customer.

Albert E. Lee (Registered Representative, Decatur, Georgia) was fined \$25,000, barred from association with any NASD member in any capacity, and ordered to pay \$706.91 in restitution. The sanctions were based on findings that Lee received cash payments totaling \$706.91 from public customers intended as insurance policy premium payments, failed to remit the payments to his member firm, and converted the funds to his own use and benefit. Lee also failed to respond to an NASD request for information.

Deborah L. Leonard (Registered Representative, Muncy, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Leonard consented to the described sanctions and to the entry of findings that she failed to respond fully to NASD requests for information.

Gerard H. Lilley (Registered Representative, Chandler, Arizona) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000, barred from association with any NASD member in any capacity, and required to pay \$5,031.35 in restitution to a customer. Without admitting or deny-

ing the allegations, Lilley consented to the described sanctions and to the entry of findings that he received from a public customer a \$4,700 check made payable to him intended for investment purposes. The NASD found that Lilley deposited the funds into his personal account, used the fund for his own benefit, and misled the customer to believe the funds were invested.

Harold A. Litwin (Registered Principal, Miami Beach, Florida) submitted an Offer of Settlement pursuant to which he was fined \$7,500, suspended from association with any NASD member in any principal or supervisory capacity for two years, and barred from association with any NASD member as a financial and operations principal. In addition, Litwin was fined \$5,000, jointly and severally with a member firm. Without admitting or denying the allegations, Litwin consented to the described sanctions and to the entry of findings that a member firm, acting through Litwin, failed to pay an arbitration award and conducted a securities business while failing to maintain its minimum required net capital. The findings also stated that a member firm, acting through Litwin, failed to maintain complete, current, and accurate books and records, and filed false and inaccurate FOCUS Part I and IIA reports. Furthermore, the NASD determined that Litwin functioned as a financial and operations principal at a member firm without being registered as such. The NASD also found that a member firm, acting through Litwin, effected customer sales of municipal bonds without having a registered municipal securities principal as required by MSRB Rules G-2 and G-3 and in violation of the firm's restriction agreement with the NASD.

Samuel J. Lopez (Registered Representative, Denver, Colorado) submitted a Letter of Acceptance,

Waiver and Consent pursuant to which he was fined \$110,000, barred from association with any NASD member in any capacity, and required to pay \$10,000 in restitution to a customer. Without admitting or denying the allegations, Lopez consented to the described sanctions and to the entry of findings that he received \$20,000 from public customers for investment purposes, deposited the funds into a bank account under his control, and used the funds for his benefit. The findings also stated that Lopez prepared and delivered a document purporting to confirm to a public customer that the customer had purchased shares of an annuity when no such purchase had been made. Furthermore, the NASD found that Lopez presented to his member firm copies of checks purporting to represent the reimbursement of funds to customers when he knew the checks were drawn on an account that lacked sufficient funds.

Stephen F. Maertzig, Sr. (Registered Representative, Philadelphia, Pennsylvania) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Maertzig failed to respond to NASD requests for information.

Patrick Wayne Maloy (Associated Person, Kingfisher, Oklahoma) was fined \$55,000, barred from association with any NASD member in any capacity, and ordered to pay \$25,430 in restitution to a customer. The sanctions were based on findings that Maloy was actively engaged in the management of the securities business of a member firm without being registered as a principal of the firm. Maloy also provided a written guarantee against loss to a customer and failed to respond to NASD requests for information.

Leonard Van McLendon, Jr. (Registered Representative, San Juan Capistrano, California) was fined \$175,000, barred from association with any NASD member in any capacity, and ordered to pay \$27,000 in restitution to customers. The sanctions were based on findings that McLendon received checks totaling \$27,000 from public customers for investment purposes and, instead, cashed the checks and converted the funds. McLendon also failed to respond to NASD requests for information.

Julio C. Meade (Registered Representative, Centreville, Virginia) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Meade consented to the described sanctions and to the entry of findings that he participated in private securities transactions while failing to provide prior written notice to his member firms of his participation in such transactions.

Meade's suspension begins on October 4, 1997 and will conclude on November 2, 1997.

Patricia A. Means (Registered Representative, Justice, Illinois) submitted an Offer of Settlement pursuant to which she was fined \$10,000, barred from association with any NASD member in any capacity, and required to pay \$645 in restitution. Without admitting or denying the allegations, Means consented to the described sanctions and to the entry of findings that she submitted a false life insurance application and a \$300 money order to an affiliate of her member firm, thereby causing the firm to pay her \$945 in commissions to which she was not entitled.

Lawrence M. Mosko (Registered Representative, Naperville, Illinois) was fined \$22,500 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Mosko prepared and delivered to public customers sales literature without obtaining prior approval by a registered principal of his member firms. Mosko also failed to respond to NASD requests for information.

Thien Huu Nguyen (Registered Representative, Westminster, California) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Nguyen failed to respond to NASD requests for information.

Thomas A. Ortwein (Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was 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 supervisory capacity for three months (suspensions served). Without admitting or denying the allegations, Ortwein consented to the described sanctions and to the entry of findings that he attempted to affect the closing price of a stock by entering a trade on behalf of a public customer at a time when he knew that the transaction was not a bona fide customer order and, in fact, was done without the customer's prior knowledge, authorization, or consent. The findings also stated that Ortwein executed a purchase transaction on behalf of a customer account without the customer's prior knowledge and/or written authority.

Philip A. Palarchio (Registered Representative, Haslett, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to

which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Palarchio consented to the described sanction and to the entry of findings that he requested that his member firm issue checks totaling \$74,098.23 to public customers who maintained life insurance policies with his member firm; obtained, endorsed, and deposited the checks in his personal bank account; and used the funds for some purpose other than the benefit of the customers, without the customers' knowledge or consent.

Richard S. Pearl (Registered Principal, Pembroke Pines, Florida) submitted an Offer of Settlement pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Pearl consented to the described sanctions and to the entry of findings that he recommended to a public customer a course of trading including short-term stock trading, the purchase and sale of listed options, margin trading, and short selling, without having a reasonable basis for believing that such trading was suitable for the customer.

Richard B. Perry (Registered Representative, Southampton, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$1,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Perry consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Eric Dean Pokross (Registered Representative, Valley Stream, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The

sanctions were based on findings that Pokross failed to respond to NASD requests to appear for an on-the-record interview.

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

Alan E. Pomeranz (Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was fined \$50,000, required to disgorge \$302,748 in commissions to customers, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Pomeranz consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to or obtaining approval from his member firm regarding the transactions.

Bobby L. Porter (Registered Representative, Palm Harbor, Florida) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Porter failed to respond to NASD requests for information.

John Ranay (Registered Representative, Englewood, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Ranay consented to the described sanctions and to the entry of findings that he submitted a Form U-4 that contained

false and incomplete information.

Michael Shane Rummel (Registered Representative, Evansville, Indiana) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rummel consented to the described sanction and to the entry of findings that he completed and submitted to his member firm a request for the withdrawal of \$7,500 from a public customer's money market fund without the customer's knowledge, consent or authorization and in the absence of written or oral authorization to Rummel to exercise discretion in the account. Furthermore, the NASD found that Rummel caused a customer to issue a \$7,500 check to him by claiming that a previous withdrawal check the customer received was issued in error, and without the customer's knowledge or consent, negotiated the check and used the funds for some purpose other than for the benefit of the customer.

Jan Sanders (Registered Representative, Lake Forest, California) was fined \$29,240, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam as a general securities representative. The sanctions were based on findings that Sanders recommended to a public customer the purchase and sale of securities without having reasonable grounds for believing the recommendations were suitable for the customer in view of the size, frequency and nature of the recommended transactions, and the facts disclosed by the customer as to his other securities holdings, financial situation, circumstances, and needs.

Jerome Neal Schneider (Registered Principal, Vancouver, British Columbia) and **Peter Alan Provence (Registered Principal, Pasadena, California)** submitted an Offer of Settlement pursuant to which Schneider was fined \$32,000 and suspended from association with any NASD member in any capacity for 30 days. Provence was fined \$10,000 and suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Schneider, exercising discretion granted pursuant to oral and written authority, implicitly recommended transactions for the account of a public customer that were unsuitable for the customer in light of the size and frequency of the transactions, including the use of margin, in view of the financial resources and character of the account, the customer's other security holdings, and financial situation and needs.

The findings also stated that Schneider submitted a Form U-4 to the NASD that failed to disclose a customer complaint. Furthermore, the NASD determined that Provence failed to supervise properly and adequately Schneider's activities to assure compliance with the NASD Conduct Rules in that, among other things, Provence failed to adequately review and monitor the discretionary trading activity in a customer's account to detect and prevent transactions that were excessive in size or frequency in view of the financial resources and character of the account. The NASD also found that Schneider and Provence failed to establish adequate written or unwritten procedures to carry out supervision of discretionary trading, as engaged in by Schneider, to ensure his compliance with the applicable Conduct Rules.

Robert F. Scholl, Jr. (Registered Representative, Atlanta, Georgia) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Scholl failed to respond to NASD requests for information.

James Kenneth Smith (Registered Representative, Ypsilanti, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000, barred from association with any NASD member in any capacity, and required to pay \$627.97 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 requested a member firm to withdraw and issue a check in the amount of \$627.97 from public customers' securities account, obtained and endorsed the check, and deposited it in his bank account without the knowledge or consent of the customers.

Robert L. Swick (Registered Representative, Towson, Maryland) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Swick consented to the described sanctions and to the entry of findings that he forged the signatures of policyholders on takeover request forms and letters requesting he be assigned as agent of record for their policies.

Arthur W. Taylor (Registered Representative, Phoenix, Arizona) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Taylor consented to the described

sanction and to the entry of findings that he completed a Form U-4 that failed to disclose SEC injunctive proceedings and a Consent Order.

Steven M. Usarzewicz (Registered Representative, Hamilton, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Usarzewicz consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Robert Wayne Vallair (Registered Principal, Houston, Texas) was fined \$5,000, suspended from association with any NASD member in any capacity for five business days, and required to requalify by exam. The sanctions were based on findings that Vallair engaged in outside business activities without notifying his member firm.

Lance E. Van Alstyne (Registered Representative, Laguna Niguel, California) was fined \$95,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Van Alstyne engaged in the management of the securities business of a member firm without being registered as a principal of the firm. Furthermore, Van Alstyne offered and sold securities to public customers for which a registration statement was not filed and in effect with the SEC and for which no exemption was applicable. In addition, Van Alstyne failed to respond to NASD requests for information and to appear for an on-the-record interview.

Carl Julius Winkler, III (Registered Representative, Carmel, Indiana) was fined \$5,745,395.50, barred from association with any

NASD member in any capacity, and ordered to pay \$1,145,079.10 in restitution to the appropriate parties. The sanctions were based on findings that Winkler obtained \$1,160,079.10 by requesting from his member firm withdrawals from annuity accounts and insurance policies of public customers and soliciting premium payments and, without the knowledge or consent of the customers, deposited the funds into a bank account he owned and controlled, and used the money for some purpose other than for the benefit of the customers. Winkler also failed to respond to NASD requests for information.

Kimberly Lynn Woodward (Registered Representative, Chandler, Arizona) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$200,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Woodward consented to the described sanctions and to the entry of findings that she converted to her own use monies totaling \$195,543.09 from the account of a public customer. The findings also stated that Woodward created falsified statements for a mutual fund, purporting to show that the monies had been deposited into that fund in the customer's name when, in fact, the funds were deposited into checking accounts she controlled.

Fusung Peter Wu (Registered Principal, Plano, Texas) submitted an Offer of Settlement pursuant to which he was fined \$2,000, jointly and severally, with a member firm, suspended from association with any NASD member in any capacity for 60 days, required to requalify by exam prior to associations with any NASD member in a principal capacity, and required to file advertisements with the NASD at least 10 days prior to use for two years. Without admitting or denying the allegations, Wu

consented to the described sanctions and to the entry of findings that a member firm, acting through Wu, failed to file advertisements with the NASD at least 10 days prior to use. The findings also stated that a member firm, acting through Wu, published an advertisement reflecting recommendations relating to specific securities that omitted material facts and/or qualifications, causing the advertising to be misleading. Furthermore, the NASD found that a member firm, acting through Wu, published and/or caused to be published, advertisements that reflected recommendations relating to specific securities and corporate equities without providing, or offering to furnish upon request, available information supporting the recommendation and failed to reflect the price at the time the recommendation was made.

James Wallace Wullschleger (Registered Representative, Piedmont, California) submitted an Offer of Settlement pursuant to which he was fined \$6,300 and suspended from association with any NASD member in any capacity for 30 days (suspension deemed served). Without admitting or denying the allegations, Wullschleger consented to the described sanctions and to the entry of findings that he sold limited partnerships to public customers while misrepresenting the liquidity and safety of the securities, and the risk of the investments. The findings also stated that Wullschleger sold limited partnership interests to customers that were unsuitable for the customers based upon the facts disclosed by them as to their other security holdings and their financial situations and needs.

Individuals Fined

Michael E. Ellis (Registered Principal, Jackson, Mississippi) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was

fined \$35,000 and required to participate in a compliance conference conducted by the NASD and to undergo training specifically designed to address his supervision of his firm's mutual funds sales activities, as a portion of the firm element of his firm's Continuing Education Program. Without admitting or denying the allegations, Ellis consented to the described sanctions and to the entry of findings that he solicited and failed to return \$41,699 to various mutual fund companies representing funds paid by the mutual fund companies in excess of the costs of sponsoring an educational meeting. Furthermore, the NASD found that Ellis did not obtain from his member firm advance written approval for a meeting in accordance with firm procedures, and retained possession of a \$5,000 check received from a mutual fund company that was erroneously deposited into his personal cash management account.

Leonard John Ialeggio (Registered Representative, Danville, California) was fined \$15,000 and ordered to requalify by exam as a general securities representative. The NBCC imposed the sanctions following a remand as to sanctions from the SEC. The sanctions were based on findings that Ialeggio submitted expense vouchers to his member firm's parent company and received payment for travel expenses totaling \$9,868.50, to which he was not entitled. Ialeggio also induced the company to pay \$35,000 for his country club dues, a payment to which he was not entitled.

This action had been appealed to the SEC and the sanctions are not in effect pending consideration of the appeal.

Decisions Issued

The following decisions have been issued by the DBCC and have been appealed to the NBCC as of September 29, 1997. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NASD. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notice to Members*.

Thomas J. Karem (Registered Principal, Louisville, Kentucky)

was fined \$100,000, suspended from association with any NASD member in any capacity for two weeks, and required to requalify by exam as a general securities representative. The sanctions were based on findings that Karem recommended and engaged in securities transactions in the account of a public customer without having reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customer on the basis of her financial situation, investment objectives, and needs. In addition, Karem engaged in a pattern of trading in the customer's account that resulted in a concentration of stock in the customer's account that ranged from 7.61 to 100 percent of the value of her portfolio. Furthermore, Karem 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.

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

Steven Alan Vejraska (Registered Representative, Bellevue, Washington) was fined \$10,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Vejraska submitted a Form U-4 that

contained false and misleading information.

Vejraska has appealed this action to the NBCC 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.

Cindy R. Kolb (Registered Principal, San Marcos, Texas) was named as a respondent in an NASD complaint alleging that she engaged in a course of business that operated as a fraud or deceit and constituted the use of devices, schemes, or artifices to defraud. Kolb is also alleged to have converted approximately \$357,000 from three public customers. In addition, Kolb allegedly forged customers' signatures to wire transfer letters of authorization and effected discretionary securities transactions in the accounts of public customers without having obtained written acceptance of the account as discretionary by her employer member firm. Further, Kolb is alleged to have engaged in excessive and unsuitable trading in four public customers' accounts, in that the size and frequency of such trading was excessive and unsuitable for the customers on the basis of their financial situation, investment objectives, and needs.

Douglas Magnuson (Registered Representative, Lindenhurst, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omissions and fraudulent price predictions in soliciting customers to purchase securities. Magnuson is also alleged to have engaged in unauthorized trading in customer accounts, and failed to follow instructions of his customers to sell securities when told to do so.

Francisco A. Pimentel (Registered Representative, Brentwood, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and fraudulent price predictions in soliciting a customer to purchase securities. Pimentel is also alleged to have failed to provide truthful on-the-record testimony to the NASD.

Michael Sabato (Registered Representative, Lindenhurst, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omissions and fraudulent price predictions in soliciting customers to purchase securities. Sabato is also alleged to have failed to follow instructions of one of his customers to sell securities when told to do so.

Wyder L. Tutiven (Registered Representative, Patchogue, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omissions and fraudulent price predictions in soliciting customers to purchase securities. Tutiven is also alleged to have engaged in unauthorized trading in a customer account, and failed to follow instructions of a customer to sell securities when told to do so.

Michael A. Woloshin (Registered Representative, Medford, New Jersey) was named as a respondent in an

NASD complaint alleging that he recommended to a public customer a series of purchases and sales of securities without having a reasonable basis to believe the recommendations were suitable for the customer.

Firm Expelled For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations Brooklyn, Capital & Securities Trading, Inc., Brooklyn, New York

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 8120 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.

BG Capital, Inc., Syosset, New York (September 3, 1997)

Gateway Capital Investment Group, Inc., Jersey City, New Jersey (September 3, 1997)

Neo-Strategies Marketing Alliances, Inc., Dallas, Texas (September 3, 1997)

Nova Financial, Inc., Dallas, Texas (September 3, 1997)

Sintra Financial Services, Inc., La Jolla, California (September 3, 1997 to September 10, 1997)

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

Michael V. Eaton, Tewksbury, Massachusetts

Thomas R. Garcia, Grand Prairie, Texas

Craig S. Gioia, Highland, New York

Gary A. Hill, Rio Rancho, New Mexico

Raymond R. India, Chicago, Illinois

Bennett L. Jones, Bedford, Texas

Robert J. Lancellotti, Valley Cottage, New York

Edward A. McKay, Jr., New York, New York

Eric C. Noe, Denver, Colorado

Steven F. Perdie, Port Jefferson Station, New York

David Rybstein, Brooklyn, New York

David J. Yorwerth, Stamford, Connecticut

NASD Regulation Disciplinary Committee Bars La Jolla Capital From Penny Stock Transactions; Orders Fines And Restitution Of More Than \$950,000

NASD Regulation, Inc., announced that its Los Angeles District Business Conduct Committee (DBCC) has ordered that San Diego-based La Jolla Capital Corp. be permanently barred from selling penny stocks and that five of its senior officials should be sanctioned for circumventing the penny stock rules. Penny stocks are unlisted securities that trade over-the-

counter and are priced under \$5 per share.

As a result of a 16-day hearing by the DBCC, La Jolla Capital and its President Harold B.J. Gallison were fined more than \$400,000 and are jointly responsible for repaying more than 100 investors from 26 states, the District of Columbia, and British Columbia almost \$400,000. The remaining four senior officials were fined a total of more than \$150,000.

Initial actions, such as this, by an NASD Regulation District Committee are final after 45 days, unless they are appealed to NASD Regulation's National Business Conduct Committee (NBCC), or called for review. The sanctions are not effective during this period.

The decision in this case has been appealed to the NBCC, and the findings may be increased, decreased, modified, or reversed.

The sales practice abuses at La Jolla Capital were uncovered after a lengthy investigation by NASD Regulation's District Offices in Los Angeles, San Francisco, and Denver. The DBCC found that from January 1994 through May 1995, La Jolla Capital and certain senior officials circumvented investor protection laws in approximately 140 transactions involving 15 separate securities. All of the transactions involve penny stocks.

The violations occurred at La Jolla Capital's offices in San Diego, CA; New York, NY; Las Vegas, NV; Bethesda, MD; and Modesto, CA.

The following senior officials were sanctioned:

Harold B.J. Gallison, President, and La Jolla Capital were fined a total of \$401,380. He was also suspended in all capacities for 30 days; permanent-

ly barred from participating in penny stock transactions; permanently barred from acting as a supervisor; and censured.

Robert C. Weaver, Executive Vice President and Chief Legal Counsel, was fined \$25,000; suspended as a supervisor for 15 business days; ordered to retake the qualifying examination to become a supervisor, and censured.

Gregory K. Mehlmann, National Branch Compliance Officer, was fined \$10,000; suspended as a supervisor for 10 business days; ordered to retake the qualifying examination to become a supervisor; and censured.

Christopher S. Knight, Branch Manager, was fined \$120,854; permanently barred from acting as a supervisor; permanently barred from participating in penny stock transactions; and censured.

Gerald J.R. Budke, Branch Manager, was fined \$5,150; suspended from participating in penny stock transactions for one year; ordered to retake

the qualifying examination to become a supervisor; and censured.

Gallison, Weaver, and Budke are still employed by La Jolla Capital.

The 15 securities involved and sold by La Jolla Capital were: Affordable Housing Constructors, Inc.; Ambra Royalty, Inc.; Drucker Industries, Inc.; Environmental Recovery Systems, Inc.; Exten Industries, Inc.; HEARx Limited; InfoServe, Inc.; Interactive Telesis, Inc. (formerly known as INN Investment News Network Limited); Largo Vista Group Ltd.; Longport, Inc.; Modern Records, Inc.; Peppermint Park Productions, Inc.; Photo Acoustic Technology, Inc.; Quadratech, Inc.; and XO Corp. There is no allegation that the affected companies knew of, or were involved in, these violations.

The DBCC found that La Jolla Capital designed a system to circumvent the Securities and Exchange Commission's (SEC) strict penny stock rules, which ensure that investors receive honest and candid information about risk disclosure and suit-

ability issues before they invest. La Jolla Capital had investors sign a misleading document that purported to exempt the transactions from the penny stock rule requirements. The letters were portrayed to investors as a "formality," and in some cases investors' signatures were forged. La Jolla also was found to have implemented misleading and deficient supervisory policies and procedures designed to foster the improper claim of this exemption.

Between February 1996 and October 1996, 22 other La Jolla Capital brokers and supervisors, without admitting or denying liability, were fined and disciplined in connection with this case. La Jolla Capital employs 140 brokers in 11 offices in California, New York, Georgia, Utah, Nevada, and Texas.

The DBCCs are comprised of elected representatives from the securities industry who serve three-year terms.

© 1997, National Association of Securities Dealers, Inc. (NASD). All rights reserved.