# DISCIPLINARY ACTIONS

Disciplinary Actions Reported For January NASD Regulation, Inc. (NASD Regulation) has taken disciplinary actions against the following firms and individuals for violations of NASD® Rules; 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 Friday, January 17, 1997. The information relating to matters contained in this Notice is current as of the end of December. Information received subsequent to the end of December is not reflected in this edition.

### Firms Fined, Individuals Sanctioned

**Castle Securities Corporation** (Freeport, New York) and Michael T. Studer (Registered Principal, Rockville Centre, New York) were fined \$25,000, jointly and severally and required to pay \$19,373.56 plus interest in restitution to customers. In addition, Studer was suspended from association with any NASD member in any capacity for 30 days and required to requalify by exam as a general securities principal. The National Business Conduct Committee (NBCC) imposed the sanctions following appeal of a Market Regulation Committee Decision. The sanctions were based on findings that the firm manipulated the price of a common stock in that it used its dominant and controlling position in the market to establish and maintain an artificial and inflated price of the stock and arbitrarily increased that price when it was known there was little or no investor or dealer interest. in the stock and no favorable news or developments concerning the stock. Furthermore, the firm charged its retail customers unfair and fraudulently excessive mark-ups ranging from 16 to 66 percent over the prevailing market price for the common stock. The firm, acting through Studer, also failed to establish, implement, and enforce reasonable supervisory procedures designed to prevent the firm's customers from being charged manipulated prices and unfair and fraudulently excessive markups in a common stock.

The firm and Studer have appealed this action to the Securities Exchange Commission (SEC) and the sanctions are not in effect pending consideration of the appeal.

Hattier, Sanford & Reynoir (New Orleans, Louisiana), Gus A. Reynoir (Registered Principal, New Orleans, Louisiana) and Vance G. Reynoir (Registered Principal, New Orleans, Louisiana) were fined \$60,000, jointly and severally. In addition, the firm must retain an independent auditor to review its books and records and supervisory procedures and to implement the auditor's recommendations in a manner satisfactory to the NASD Regulation<sup>SM</sup> staff. G. Reynoir was suspended from association with any NASD member in any capacity for 30 days and required to requalify by exam as a general securities principal. V. Reynoir was suspended from association with any NASD member in any capacity for 30 days and required to requalify as a municipal securities principal. The NBCC imposed the sanctions following appeal of a New Orleans District **Business Conduct Committee** (DBCC) decision. The sanctions were based on findings that the firm, acting through G. Reynoir and V. Reynoir, issued trade tickets to a municipal customer that did not disclose the firm's commission or mark-

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

#### Firms And Individuals Fined

Gilmore Securities & Company (Fair Lawn, New Jersey) and Brian K. Gilmore (Registered Principal, Westwood, New Jersey) submitted an Offer of Settlement pursuant to which they were fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Gilmore, permitted the total outstanding principal amounts of its satisfactory subordinated agreements to exceed 70 percent of its debt-equity total in contravention of SEC Rule 15c3-1(d).

Oftring & Co., Inc. (Worcester, Massachusetts) and Robert J. Oftring (Registered Principal. Worcester, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the respondents were fined \$15,000, jointly and severally. In addition, Oftring must 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 Oftring, failed to establish and maintain a supervisory system to supervise the activities of each registered representative and associated person of the firm adequately and failed to enforce compliance with its written supervisory procedures. The findings also stated that the firm, acting through Oftring, allowed a former registered representative of the firm to solicit new business from customers and receive securities sales commission compensation when the individual was not registered with the firm.

Pierce & Company L.P. (Chicago, Illinois), Wayne L. Pierce (Registered Principal, Oak Park, Illinois), and Carol J. Berberich (Registered Principal, Bartlett, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$20,000, 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 Pierce and Berberich, conducted a securities business while failing to maintain its minimum required net capital. The NASD also found that the firm, acting through Pierce and Berberich, prepared inaccurate trial balances and net capital computation and filed inaccurate FOCUS Part I and IIA reports with the NASD.

#### Firm Fined

Stephens Inc. (Little Rock, **Arkansas**) submitted an Offer of Settlement pursuant to which the firm was fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanction and the entry of findings that it allowed an individual to act as a general securities representative without being registered as such with the NASD. The findings stated that the firm failed to exercise reasonable and proper supervision over individuals in connection with their recommendations and misrepresentations. The NASD found that the firm failed and neglected to establish, maintain, and enforce proper supervisory procedures governing communications between unregistered securities analysts and public customers. Furthermore, the NASD determined that the firm allowed individuals to make misrepresentations to public customers regarding the details of a merger and lawsuit settlement.

#### **Individuals Barred or Suspended**

Mitchell Aguirre (Registered Representative, Woodhaven, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanc-

tions were based on findings that Aguirre failed to respond to NASD requests for information about a customer complaint.

Roberto Gabriel Anker (Registered Representative, Rochester Hills, Michigan) was barred from association with any NASD member in any capacity. The sanction was based on findings that Anker engaged in private securities transactions without providing prior written notice to or obtaining prior written authorization from his member firm to engage in such activities. Anker also failed to respond to NASD requests for information.

**Eddie Harrison Artis (Registered** Representative, Jersey City, New Jersev) submitted an Offer of Settlement pursuant to which he was fined \$45,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations. Artis consented to the described sanctions and to the entry of findings that he received \$5,000 from a public customer for investment purposes and instead, converted the funds to his own use without the customer's knowledge. authorization, or consent. Artis also failed to respond to NASD requests for information.

Joe Dwayne Baugus (Registered Representative, Spring, Texas) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Baugus participated in a private securities transaction without providing prior written notice to his member firm. Baugus also failed to respond to NASD requests for information.

Dianne Baum (Associated Person, Staten Island, New York) submitted an Offer of Settlement pursuant to which she was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Baum consented to the described sanctions and to the entry of findings that she failed to respond to NASD requests to appear for an on-the-record interview.

Edwin Andrew Bayne (Registered Representative, Laurel, Montana) was fined \$2,500, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam. The sanctions were based on findings that Bayne received commission checks made payable to a former registered person, signed the individual's name to the checks, and deposited them into bank accounts over which he had control.

Peter Caruso (Associated Person, 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 Caruso arranged and conspired to have an imposter take the Series 7 qualification exam for him. Caruso also failed to respond to NASD requests for information.

Dina L. Casanova (Associated Person, Brooklyn, New York) was fined \$10,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Casanova failed to appear at the NASD for an on-the-record interview.

John F. Cooper (Registered Representative, Mesa, Arizona) was fined \$15,000, barred from association with any NASD member in any capacity, and required to pay \$3,099.80 in restitution to a member firm. The sanctions were based on findings that Cooper obtained a dividend withdrawal check made payable to an insurance customer, endorsed the check, cashed it or caused it to be cashed through an

account in which he had a beneficial interest, and used the funds for some purpose other than for the benefit of the customer.

Glenn Ray Dean (Registered Representative, Port Isabel, Texas) 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, Dean consented to the described sanction and to the entry of findings that he effected a private securities transaction without providing prior written notice to his member firm. The findings also stated that Dean failed to respond timely and completely to NASD requests for information.

John D'Esposito (Associated Person, Staten Island, New York) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that D'Esposito had an imposter take the Series 7 exam on his behalf.

James C. DiAngelo (Registered Representative, Kings Park, New York) was fined \$25,000 and barred from association with any NASD member in any capacity. The NBCC affirmed the sanctions following appeal of a New York DBCC decision. The sanctions were based on findings that DiAngelo, as a result of a customer's complaint about an alleged unauthorized trade executed in the customer's account, paid the customer \$450 for losses without his member firm's knowledge or consent. DiAngelo also failed to respond to NASD requests for information.

Danilo Dario Diaz (Registered Representative, Deer Park, New York) was fined \$5,277 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Diaz consented to the described sanctions and to the entry of findings that he altered a money order that was submitted by a public customer for insurance payment and, instead, used the money order to reinstate a lapsed policy for another customer.

Rafael Diaz (Associated Person, Bronx. New York) was fined \$28,628.10 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Diaz caused checks totaling \$1,150 to be drawn on the insurance policies of public customers, wrongfully obtained possession of the checks, forged the customers' signatures, cashed the checks, and converted the funds to his own personal use. Diaz also received from public customers \$575.62 in life insurance policy premiums, failed to submit the premiums, and converted the funds to his own personal use. Furthermore, Diaz failed to respond to NASD requests for information.

Laurence G. Epstein (Registered Representative, Mercer Island, Washington) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$75,000, barred from association with any NASD member in any capacity, and required to pay \$170,000 in restitution to a customer. Without admitting or denying the allegations, Epstein consented to the described sanctions and to the entry of findings that he exercised discretion in the account of a public customer without obtaining prior written discretionary authorization from the customer and without written acceptance of such account by his member firm. The findings also stated that Epstein recommended the purchase of securities to a public customer without having reasonable grounds for believing that such recommendations were suitable for the customer based upon the nature of the investment, the size and frequency of the recommended transactions, and the customer's financial situation, circumstances, and needs. Furthermore, the NASD found that Epstein effected transactions in the account of a deceased public customer without the knowledge or authorization of the customer's estate, personal representative, or executrix.

Lev George Fedyniak (Registered Representative, Poughkeepsie, New York) was fined \$170,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Fedyniak received \$30,000 from public customers for purchasing investments on their behalf and instead, invested these monies with a non-member firm and failed to return any of the customers' money at their request. Fedyniak also failed to respond to NASD requests for information.

Thomas L. Gottschalk (Registered Principal, Arvada, Colorado) submitted an Offer of Settlement pursuant to which he was fined \$40,000, barred from association with any NASD member in any principal capacity, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Gottschalk consented to the described sanctions and to the entry of findings that he approved advertising and business cards that did not conform to NASD rules. The findings also stated that Gottschalk permitted his member firm to conduct a securities business while failing to maintain required net capital and filed inaccurate FOCUS reports. Furthermore, the NASD determined that Gottschalk participated as a selling agent in a private placement of securities wherein the offering was subject to minimum sales contingency and, in connection with the offering, his member firm's books and records

were inadequate and failed to evidence principal review of the transactions. The NASD also found that Gottschalk permitted his member firm to violate its restriction agreement with the NASD.

Richard E. Gregory (Registered Representative, Irving, Texas) 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 16 months. Without admitting or denying the allegations, Gregory consented to the described sanctions and to the entry of findings that he induced a public customer to purchase a security by making predictions that he had reason to know, or was reckless in not knowing, lacked a reasonable or adequate basis in fact.

Keith D. Hall (Associated Person, Montclair, New Jersey) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hall failed to appear at the NASD for an on-the-record interview.

Terrence L. Hansen, Jr. (Registered Representative, Salt Lake **City, Utah)** was fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$219,999.97 in restitution to public customers. The sanctions were based on findings that Hansen failed to invest customers' funds totaling \$219,999.97 as directed. Furthermore, Hansen provided false statements to public customers that purported to show that the customers had securities positions at a member firm, when in fact the firm did not carry any securities positions for the benefit of the customers. Hansen also failed to respond to an NASD request for information.

Shannon Akira Hayashi (Registered Principal, Fort Collins, Col-

orado) was fined \$26,750, barred from association with any NASD member in any capacity, and required to pay \$1,050 in restitution to a customer. The NBCC imposed the sanctions following appeal of a Denver DBCC decision. The sanctions were based on findings that Hayashi made improper use of customer funds totaling \$5,350.

Susan Baker Head (Registered Principal, Princeton, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$3,750, suspended from association with any NASD member in any capacity for two weeks, and suspended from association with any NASD member in any principal capacity for two months. Without admitting or denving the allegations. Head consented to the described sanctions and to the entry of findings that she failed to detect the manipulative pattern of trading by her member firm.

Bruce William Irvine (Registered Representative, Temple, Texas) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Irvine received checks made payable to public customers on which he forged the signatures of such customers and converted the funds to his own use and benefit. Irvine also failed to respond to NASD requests for information.

Aaron Lee Johnson (Registered Representative, Tempe, Arizona) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Johnson failed to disclose a criminal conviction on a Form U-4. Johnson also failed to respond to NASD requests for information.

Jerome H. Kowalski (Registered Representative, Dayton, Ohio) and

John F. Rebolt (Registered Representative, Fairborn, Ohio). Kowalski was fined \$7,500, suspended from association with any NASD member in any capacity for 60 days, required to requalify be exam as a general securities representative, and ordered to pay \$5,740 in restitution. Rebolt was fined \$12,500, suspended from association with any NASD member in any capacity for 60 days, ordered to requalify by exam as a general securities representative, and ordered to pay \$9,785 in restitution. The NBCC affirmed the sanctions following appeal of a Cleveland DBCC decision. The sanctions were based on findings that Kowalski and Rebolt used the means or instruments of interstate commerce or the mail to sell securities when there was no registration statement filed with the SEC or in effect for such securities. Kowalski and Rebolt also participated in private securities transactions by selling presubscription shares of stock to public customers and failed to give prior written notice to and obtain prior written authorization from their member firm to engage in such activities. Furthermore, Rebolt failed to respond to NASD requests for information.

**Peter Dennis Mathews (Registered** Principal, Edina, Minnesota), James Gus Oliver (Registered Principal, Grapevile, Texas), Robert Alan Williky (Registered Representative, Collevville, Texas) Mark Joseph Vanyo (Registered Representative, Eagan, Minnesota), Lyle Emery Bettenhausen, Sr. (Registered Representative, Tampa, Florida) and Gloria Ann Williams (Registered Representative, Plano, Texas). Mathews, Oliver, Williky, Vanyo, and Bettenhausen submitted an Offer of Settlement pursuant to which Mathews was fined \$400,000 and barred from association with any NASD member in any capacity and Oliver was fined \$25,000, suspended from association

with any NASD member in any capacity for 90 days, and required to requalify by exam. Williky was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 days and Vanyo was fined \$50,000, suspended from association with any NASD member in any capacity, and required to requalify by exam. Bettenhausen was fined \$25,000, suspended from association with any NASD member in any capacity for 90 days, and required to requalify by exam. In a separate decision Williams was fined \$50,000 and barred from association with any NASD member in any capacity.

Without admitting or denying the allegations, Mathews, Oliver, Williky, Vanyo, and Bettenhausen consented to the described sanctions and to the entry of findings that, in connection with a public offering, Mathews and Williky knowingly effected transactions that they knew or should have known, or were reckless in not knowing, were non-bona fide and designed to create the appearance of a successful completion of the offering. The findings also stated that Mathews and Williky knowingly or recklessly bid for and purchased. induced orders to bid for and purchase, and sold or resold, 20 percent of the offering while the distribution continued after its purported closing. Furthermore, the NASD determined that Mathews, Oliver, and Vanyo, by means of manipulative, deceptive, and other fraudulent devices and contrivances, effected a series of transactions that created actual and apparent trading in a stock, artificially supported the price, and were effected for the purpose of inducing the purchase or sale of the stock to others. The NASD found that Mathews, Oliver, and Bettenhausen made statements of material fact that they knew, had reason to know, or were reckless in not knowing, were false to induce retail customers to make investment decisions. The NASD also deter-

mined that Mathews executed transactions in the accounts of public customers that were not authorized and were made in order to support a stock price, further the aforementioned manipulative scheme, and avoid net capital deficiencies by lowering his member firm's inventory. The findings stated that Mathews also allowed an individual, who was precluded from functioning as a registered representative, to direct trading, update quotations, direct unauthorized transactions in customer accounts, and participate in selling group and retail sales efforts at his member firm. The individual also failed to establish, maintain, and enforce supervisory procedures to assure compliance with applicable rules, misused customer funds. and engaged in private securities transactions.

In addition, Williams failed to inform her member firm in writing concerning accounts and transactions she had at another member firm or inform the executing firm of her status with her member firm. Williams also failed to respond to NASD requests for information.

Brian L. Plescher (Registered Representative, Grand Rapids, Michigan) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. The sanction was based on findings that Plescher exercised discretion in the accounts of public customers without obtaining written authorization from the customers and written acceptance of the discretionary authority by his member firm.

Mark J. Pruss (Registered Representative, Plainfield, Illinois) was fined \$355,000, barred from association with any NASD member in any capacity, and ordered to pay \$66,742.68 in restitution to a customer. The sanctions were based on

findings that Pruss obtained from a public customer checks totaling \$66,742.68 with instructions to use the funds to purchase securities. Pruss failed to follow said instructions and used the funds for some purpose other than for the benefit of the customer. Pruss also failed to respond to NASD requests for information.

Robert A. Ouiel (Registered Principal, Bermuda Dunes, California) was fined \$12,500, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam as a general securities principal and general securities representative. The NBCC imposed the sanctions following appeal of a Denver DBCC decision. The sanctions were based on findings that Ouiel effected principal retail transactions with customers involving securities at prices that were unfair and excessive with markups ranging from eight to 40 percent above the prevailing market price. Quiel also failed to respond completely to NASD requests for information.

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

Felix A. Rodriguez (Registered Representative, New York, New York) 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, Rodriguez consented to the described sanctions and to the entry of findings that he effected the purchase of securities in the accounts of public customers without their knowledge or authorization.

Shawn C. Ruffin (Registered Representative, Jersey City, New Jersey) was fined \$220,000 and barred

from association with any NASD member in any capacity. The sanctions were based on findings that Ruffin executed unauthorized transactions in customer accounts without their knowledge, authorization, or consent. Ruffin also executed unsuitable options transactions in a customer's account without having a reasonable basis to believe that the transactions were suitable for the customer and made misrepresentations to the customer regarding the transactions. Furthermore, Ruffin submitted a false new account form to his member firm and failed to respond to NASD requests for information.

Dominick M. Schina (Registered Representative, Jobstown, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$15,000, barred from association with any NASD member in any capacity, and required to pay a \$6,513.99 arbitration award. Without admitting or denying the allegations, Schina consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information. The NASD also found that Schina failed to pay an arbitration award.

Dominick M. Schina (Registered Representative, Voorhees, New Jersey) 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, Schina consented to the described sanctions and to the entry of findings that he entered into oral and written agreements with a company in which he received compensation without disclosing to his member firm or customers that he had entered into the agreements.

Thomas M. Scully (Registered Representative, Franklin Square, New York) was fined \$120,000, barred from association with any NASD member in any capacity, and ordered to pay \$682.50 in restitution to a member firm. The sanctions were based on findings that Scully made misrepresentations to a public customer in an effort to induce the customer to purchase shares of a stock. Furthermore, Scully purchased shares of common stock in the account of public customers without their prior knowledge, authorization, or consent. In addition, Scully purchased or effected the purchase of shares of stock in his securities account at his member firm and failed to pay for the purchase. Scully also failed to respond to NASD requests for information.

**Timothy John Shipley (Registered** Principal, Grover, Missouri) submitted an Offer of Settlement 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, Shipley consented to the described sanctions and to the entry of findings that, by use of instrumentalities of interstate commerce or the mail, he intentionally or recklessly employed devices to defraud customers by making untrue statements of material facts or omitting material facts necessary to make the statements by him not misleading. The findings also stated that Shipley engaged in a course of business that operated as a fraud or deceit upon customers in that he recommended to the customers the purchase of securities without a reasonable basis.

Michael J. Siegel (Registered Representative, Louisville, Kentucky) and Dennis C. Moore (Registered Representative, Louisville, Kentucky) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were each fined \$10,000, suspended from association with any NASD member in any capacity for six months, and required

to requalify by exam as investment company and variable contracts products representatives. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they engaged in the sale of unregistered securities in that they solicited public customers to invest in a company in which they held ownership interests. The findings also stated that Siegel and Moore engaged in private securities transactions without prior written notice to and approval from their member firm.

Richard L. Sladek (Registered Representative, Cuyahoga Falls, Ohio) was fined \$92,000, barred from association with any NASD member in any capacity, and required to pay \$12,000 in restitution to a member firm. The sanctions were based on findings that Sladek received a \$12,000 check from a public customer for investment in a mutual fund. Without the customer's consent. Sladek failed to use the funds for their intended purpose and used the funds for some other purpose other than for the benefit of the customer. Sladek also failed to respond to NASD requests for information.

Wilfred Alexander Soucy, Jr. (Registered Representative, Yardley, Pennsylvania) was fined \$25,000, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam. The sanctions were based on findings that Soucy participated in private securities transactions without giving prior written notification to his member firm.

Craig D. Sterling (Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for two business days.

Without admitting or denying the allegations, Sterling consented to the described sanctions and to the entry of findings that he charged retail customers unfair prices, including excessive gross commissions, in the sale of securities.

Timothy R. Strong (Registered Representative, Memphis, Tennessee) submitted an Offer of Settlement pursuant to which he was fined \$120,000, barred from association with any NASD member in any capacity, and required to pay \$218,292 in restitution. Without admitting or denying the allegations, Strong consented to the described sanctions and to the entry of findings that he received \$218,291.53 from public customers for investment purposes, failed to submit the funds to his member firm and, instead, endorsed the checks, and deposited them into his personal bank accounts, without the public customers' knowledge or consent. The findings also stated that Strong failed to respond to NASD requests for information.

James C. Turchiarilli (Registered Representative, Williamsville, New York) was fined \$25,000, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam as a general securities representative and general securities principal. The sanctions were based on findings that Turchiarilli participated in private securities transactions and failed to give prior written notice to or obtain prior written authorization from his member firm to engage in such activities.

George C. Vafias (Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000, suspended from association with any NASD member in any capacity for three months, and required to pay

\$3,607.14 in restitution to a public customer. Vafias also must disgorge \$815.55 plus interest and is required to requalify by exam. Without admitting or denying the allegations, Vafias consented to the described sanctions and to the entry of findings that he purchased and sold shares of stock in the accounts of public customers without their prior knowledge or consent.

Brian S. Walker (Registered Representative, Wanaque, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$455,600 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Walker consented to the described sanctions and to the entry of findings that he received funds from public customers for investment purposes and, instead, converted the funds for his own use without the customers' knowledge, consent, or authorization. The findings also stated that Walker failed to respond to NASD requests for information.

**Gregory T. Watkins (Registered** Representative, Little Rock, **Arkansas**) 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 one month, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, Watkins consented to the described sanctions and to the entry of findings that he recommended and engaged in purchase and sale transactions in the accounts of public customers without having reasonable grounds for believing that the transactions were suitable for the customers on the basis of their age, financial situations, investment objectives, and needs. The findings also stated that Watkins exercised discretion in the account of an institutional customer without

having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm. Furthermore, the NASD determined that Watkins executed transactions in the accounts of public customers without obtaining a written third party trading authorization from the customers.

John J. Weber (Registered Representative, Newport Beach, California) 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 capacity for three business days. Without admitting or denying the allegations, Weber consented to the described sanctions and to the entry of findings that he charged retail customers unfair prices including excessive gross commissions in sales of securities.

Willis White, III (Registered Representative, Hempstead, New York) was fined \$10,000, suspended from association with any NASD member in any capacity for two months, required to requalify by exam, ordered to pay \$3,503.12 in restitution to customers, and ordered to disgorge \$504.25. The sanctions were based on findings that White effected unauthorized transactions in customer accounts without the knowledge, authorization, or consent of the customers.

Ronald G. Zimmerman Jr. (Registered Representative, Arlington, Texas) was fined \$10,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Zimmerman, acting without the authorization or consent of a policyholder, affixed a signature purporting to be that of the policyholder to a request form for a \$2,166 policy loan and submitted the form to his member firm.

Frank P. Zitkevitz (Registered Representative, Laurel Springs, 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, Zitkevitz consented to the described sanctions and to the entry of findings that he participated in private securities transactions and exercised discretion in the accounts of public customers without informing the customers of such transactions.

#### **Individuals Fined**

Klaus Foetzsch (Registered Principal, Dusseldorf, Germany) submitted an Offer of Settlement pursuant to which he was fined \$50,000 and required to requalify by exam. Without admitting or denying the allegations, Foetzsch consented to the described sanctions and to the entry of findings that, on behalf of his member firm, he created and controlled a fictitious discretionary account through which he effected various securities transactions. The NASD found that, in connection with the aforementioned activities. Foetzsch knowingly prepared and established various books and records under the fictitious account. The findings also stated that Foetzsch knowingly submitted a false and misleading Form U-5 to the NASD regarding the termination of a registered representative.

Terence J. Murphy (Registered Representative, Clancy, Montana) submitted an Offer of Settlement pursuant to which he was fined \$12,000 and required to requalify by exam. Without admitting or denying the allegations, Murphy consented to the described sanctions and to the entry of findings that he engaged in the solicitation of customers on behalf of two firms and received compensation for his efforts without disclosing

promptly to his member firm his outside association with or employment by the firms.

Shelia P. Smith (Registered Representative, Mobile, Alabama) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$20,000. Without admitting or denying the allegations. Smith consented to the described sanction and to the entry of findings that, in connection with the offer and sale of interests in government funds, she failed and neglected to have an adequate basis on which to recommend the sale of such interests to public customers based on the customers' investment objectives, financial situations, and needs.

Firms Expelled For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations Penn Capital Financial, Inc., Pittsburgh, Pennsylvania

Weldon Sullivan Carmichael & Company, Denver, Colorado

#### Firm Suspended

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension 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.

Warington Capital Corp., New York, New York (December 2, 1996)

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

**Dan Patrick Dougherty,** San Francisco, California

Rodney H. Dudley, Madison, Mississippi

**Michael V. Duncan,** San Marcos, Texas

**John W. Ford,** Pittsburgh, Pennsylvania

**Matthew J. Ford,** Pittsburgh, Pennsylvania

Robert L. Gardner, Valencia, California

William P. Hogan, Pittsburgh, Pennsylvania

Ennis Hudson, Denver, Colorado

**Arun Kumar Misra,** Stone Mountain, Georgia

**Anthony J. Murphy,** Aurora, Colorado

**Jack Stephen Nail,** Jackson, Mississippi

**Helen A. Roy,** Pittsburgh, Pennsylvania

**John J. Wright,** Burnsville, Minnesota

Individuals Whose Registrations
Were Canceled/Suspended
Pursuant To NASD Rule 9622 For
Failure To Pay Arbitration Awards
Arthur Martin Bergen, Manalapan,

**Arthur Martin Bergen,** Manalapan New Jersey

**Louis Charles Miceli, Jr.,** Brooklyn, New York

## NASD Regulation Expels Stratton Oakmont; Principals Also Barred

NASD Regulation announced it has permanently expelled the New Yorkbased firm Stratton Oakmont from the securities industry.

The announcement was made after market close on December 5, 1996, following a decision by the NASD Regulation NBCC. The NBCC ruling follows an appeal filed by Stratton Oakmont of an April 1996 decision by the New York DBCC. The NBCC increased the sanction against Stratton Oakmont to expulsion from the original DBCC sanction of a one-year prohibition against effecting any principal retail transactions.

The NBCC decision also barred Stratton Oakmont President Daniel M. Porush and head trader Steven P. Sanders. In its decision, the NBCC increased Sanders' original penalty from a one-year suspension to a bar and affirmed the bar for Porush. Porush was also fined \$250,000 and censured, while Sanders was fined \$25,000 and censured.

Stratton Oakmont was ordered by the NBCC to pay \$416,528 in restitution to customers, fined \$500,000, and censured.

All of Stratton Oakmont's customer accounts will continue to be held by J.B. Oxford, a separate broker/dealer firm that has performed all of Stratton Oakmont's clearing operations. Anyone with questions about their accounts should contact J.B. Oxford's Customer Service Department at (310) 777-8888, ext. 289. J.B. Oxford is a Los Angeles-based firm.

"With this expulsion, NASD Regulation has rid the securities industry of one of its worst actors," said NASD Regulation President Mary L. Schapiro. "With Stratton Oakmont's extensive and serious regulatory his-

tory, and an obvious disregard for all rules of fair practice, today's actions make the securities industry a better place for investors."

Barry R. Goldsmith, NASD Regulation's Executive Vice President of Enforcement added, "In less than a decade, Stratton Oakmont amassed one of the worst regulatory records of any broker/dealer firm. The firm has been the subject of numerous disciplinary actions brought by the NASD, the Securities and Exchange Commission (SEC), and state regulators involving fraud, market manipulation, sales practice abuses, and failures to adequately supervise its employees."

The NBCC found that "The firm must be, and hereby is, expelled from membership due to the number and gravity of the violations which we have sustained, and the number and gravity of the firm's relevant prior disciplinary incidents. We find that this history establishes a coherent pattern of willful disregard for regulatory requirements and regulatory authority, as well as a failure of lesser steps to remediate the firm's conduct."

The 23-page decision also noted that the bars of both Porush and Sanders were necessary because: "[They] continue to deny responsibility and exhibit no remorse for [their] misconduct, and, but for the bar, would continue to pose an ongoing risk to the investing public."

The SEC and a number of state securities regulators around the nation have also sanctioned Stratton Oakmont. In early 1994, the SEC settled an enforcement action against Stratton Oakmont and Porush, after alleging that the firm engaged in securities fraud through its "boiler room" sales operation. By late 1994, the SEC had charged Stratton Oakmont with violating the settlement agreement and

obtained a permanent injunction against the firm requiring future compliance.

The April 1996 DBCC decision resulted from a complaint filed by NASD Regulation in late 1995 and early 1996. The complaint charged:

- Excessive And Fraudulent Mark Ups—From October 18, 1993, through November 17, 1993, Stratton Oakmont, acting through Sanders, effected more than 150 principal retail sales of Class A and Class B warrants for the initial public offering of Master Glazier's Karate International Inc., that were marked-up excessively or fraudulently (greater than 10 percent above the prevailing market price).
- Deficient Supervision—During the period and activity in question, Stratton Oakmont and Porush failed to establish, maintain, and enforce a supervisory system to prevent the violations in question.

The DBCC found that Stratton
Oakmont—which underwrote the
offering—controlled the market for
Master Glazier, finding that no other
broker/dealer made even a single
purchase or sale of Class A or Class
B warrants on a principal basis during the review period.

In its ruling, the NBCC stated: "Stratton, through Sanders, intentionally structured and participated in an IPO with a view toward retaining a high percentage market share for the purpose of economic gain." It also said that "the firm and Sanders engaged in abusive pricing" and actions that "discouraged the sales force from allowing customers to sell their securities back to Stratton, thus reducing the firm's risk and enhancing its ability to dictate prices arbitrarily."

The NBCC also found that Porush did not satisfy his responsibility to

establish supervisory procedures as the firm's President and supervisor of the firm's retail sales force and trading and compliance operations. The NBCC added "we do not accept Porush's defense that he was a mere figurehead as President." According to the NBCC decision, Porush also was the salesperson with the largest individual allocation in the Master Glazier underwriting, had access to real-time pricing information, and as a result "had an obligation to assure that the retail products marketed by his sales force were in compliance with all relevant legal requirements, including those prohibiting excessive pricing."

Prior to being expelled, Stratton functioned as a market maker for 23 securities listed on The Nasdaq Small Cap Market and four on The Nasdaq National Market. As a result of its expulsion, Stratton will cease all of its market-making functions immediately.

The respondents have appealed to the SEC and the sanctions, other than the expulsion of Stratton Oakmont and the bars of Porush and Sanders, are not in effect pending the appeals.

#### NASD Regulation Fines Stephens Inc., \$225,000 For Failure To Properly Supervise Distribution Of Mutual Funds Sold On Bank Premises

NASD Regulation announced that it has fined Stephens Inc., \$225,000 and censured the firm in connection with the sale of the proprietary mutual funds of NationsSecurities, Inc., an affiliate of NationsBank N.A. A Stephens broker was also sanctioned.

Based in Little Rock, Arkansas, Stephens neither admitted nor denied NASD Regulation's findings that the broker/dealer failed to adequately supervise its employees in connection with the public sale and distribution of mutual funds. The mutual funds were sold mainly by Nations-Securities through the branch offices of NationsBank located throughout the southeast.

As part of its settlement with NASD Regulation, Stephens must hire an independent auditor to review the firm's supervisory policies and procedures, and then to implement the changes recommended by the consultant. Furthermore, the consultant will conduct a mandatory training program in the new supervisory system for appropriate senior personnel and supervisors.

The settlement with Stephens was reached following an investigation by the NASD Regulation District Office 5 in New Orleans.

NASD Regulation also found that Richard H. Blank, Jr., failed to properly perform his duties as supervisor of Stephens' employees who were involved in the promotion and distribution of the mutual funds. Blank, who neither admitted nor denied the findings, was fined \$10,000 and censured. He is also required to participate in the new supervisory training program referenced above.

"This case is a clear example of our continuing effort to protect investors by taking disciplinary action against firms and supervisors who violate NASD rules," Schapiro added.

The disciplinary action was taken by the NASD Regulation DBCC for District 5, which has jurisdiction over members with main and branch offices in Louisiana, Mississippi, Alabama, Arkansas, Tennessee, Oklahoma, and Kentucky.

NASD Regulation's investigation is continuing.

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