

Disciplinary and Other NASD Actions

REPORTED FOR MARCH

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of January 2007.

Firms Fined

Cantor Fitzgerald & Co. (CRD #134, New York, New York)

submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit accurate trading information through the submission of electronic blue sheets in response to NASD requests. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD Rules 8211 and 8213 concerning the submission of electronic blue sheet data. (NASD Case #2005002507802)

Capstone Investments (CRD #41400, San Diego, California)

submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it entered short sale orders and, for each order, failed to annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by settlement date. (NASD Case #2004200014601)

Citigroup Global Markets, Inc. (CRD #7059, New York, New York)

submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$42,500 and required to revise its written supervisory procedures regarding transaction reporting of Over-the-Counter (OTC) equity and Consolidated Quotation System (CQS) securities, and SEC Rule 10a-1. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity and eligible securities through the Automated Confirmation Transaction ServiceSM (ACTSM), now the NASDAQ Market Center (NMC), failed to designate some of the reports as late through ACT and incorrectly designated some sales reports as late. The findings stated that the firm failed to designate last sale reports of transactions in OTC equity securities

executed outside normal market hours as “.T” through ACT. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning transaction reporting of OTC equity and Consolidated Quotation System (CQS) securities, and SEC Rule 10a-1. The findings also included that the firm failed to submit New Order and Route Reports to the Order Audit Trail SystemSM (OATSSM), failed to provide written notification disclosing the firm’s correct capacity in transactions to its customers, and failed, on one occasion, when the firm acted as principal for its own account, to provide written notification disclosing that it was a market maker in the security to the firm’s customer. NASD found that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. **(NASD Case #2004200009101)**

Commerce Capital Markets, Inc. (CRD #6940, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$75,000 and required to revise the firm’s written supervisory procedures with respect to compliance with MSRB Rule G-17. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory system did not provide for sufficient supervision reasonably designed to achieve compliance with applicable securities laws and regulations, specifically MSRB Rule G-17. The findings stated that the firm’s supervisory system did not include sufficient written supervisory procedures that provided for identification of the person(s) responsible for supervision with respect to compliance with MSRB Rule G-17, a statement of the supervisory step(s) to be taken by the identified person(s), a statement as to how often such person(s) should take such step(s) and a statement as to how completion of the step(s) included in the written supervisory procedures should be documented. **(NASD Case #20050003239)**

Domestic Securities, Inc. (CRD #34721, Montvale, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$28,000 and required to revise its written supervisory procedures regarding limit order display, limit order protection, the “Three Quote Rule,” best execution,

SEC Rule 11Ac1-5 (nka SEC Rule 605), anti-competitive practices, trade reporting, short sales and recordkeeping. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions and failed to report them to the NMC with a short sale modifier. The findings stated that the firm failed to report the correct symbol indicating whether it executed transactions in eligible securities in a principal or agency capacity to the NMC. The findings also stated that the firm incorrectly reported the first leg of “riskless” principal transactions in NASDAQ National Market (NNM) securities to ACT, and incorrectly designated the capacity of each transaction as agent and incorrectly reported the second leg of “riskless” principal transactions by failing to submit the transaction reports as clearing-only reports or non-tape, non-clearing reports. The findings also included that the firm incorrectly reported a “riskless” principal transaction in an OTC equity security to ACT by incorrectly reporting the entire amount of the transaction as “riskless,” when only a portion of the transaction was a “riskless” principal transaction.

NASD found that the firm’s written supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning limit order display, limit order protection, the “Three Quote Rule,” best execution, SEC Rule 11Ac1-5 (nka SEC Rule 605), anti-competitive practices, trade reporting, short sales and recordkeeping. NASD also found that the firm failed to enforce its written supervisory procedures with respect to registration, OATS clock synchronization, OATS accuracy and “riskless” principal trade reporting. In addition, NASD determined that the firm failed to evidence that it conducted the reviews its written supervisory procedures described. **(NASD Case #2005000264301)**

Frost Brokerage Services, Inc. (CRD #17465, San Antonio, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected municipal securities transactions that were reported late to the MSRB, were reported with the incorrect trade time, were reported without the special price reason code that would have identified the transaction as a “when

issued" trade, and one transaction was reported with an inaccurate trade report and one transaction was reported without a price. The findings stated that the firm failed to supervise the conduct of its municipal securities activities and failed to adopt, maintain and enforce written supervisory procedures reasonably designed to ensure compliance with MSRB Rule G-14's municipal transaction reporting requirements. **(NASD Case #E062005008401)**

FSC Securities Corporation (CRD #7461, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report several matters and reported one matter late pursuant to NASD Rule 3070(c), and failed to report one disclosable event on a Uniform Application for Securities Industry Registration or Transfer (Form U4), and reported other events late on Forms U4 or Uniform Termination Notices for Securities Industry Registration (Forms U5). **(NASD Case #E072005019701)**

Goldman, Sachs & Co. (CRD #361, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$85,000 and required to review its supervisory system and procedures concerning compliance with MSRB rules with respect to reporting inter-dealer transactions. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report and/or incorrectly reported inter-dealer transactions in Periodic Auction Reset Securities (PARS) to the MSRB. The finding stated that the firm failed to submit information and/or instructions required to allow for automated comparison of the firm's inter-dealer transactions to a registered clearing agency. The findings also stated that its supervisory system and procedures were not reasonably designed to achieve compliance with MSRB rules regarding reporting inter-dealer transactions in PARS. The findings also included that the firm failed to adequately monitor its reporting of those transactions for compliance with MSRB rules. **(NASD Case #E1020050169-01)**

GunnAllen Financial, Inc. (CRD #17609, Tampa, Florida) submitted an Offer of Settlement in which the firm was censured and fined \$50,000. Without

admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, while acting through an individual, it failed to obtain written consent to conduct numerous unauthorized Web-based Central Registration Depository® (CRD®) searches and falsely certified that the firm had obtained written consent. The findings stated that the firm failed to establish and maintain written procedures to supervise the use of Web CRD, failed to supervise the use of Web CRD to ensure that the requisite written consents were obtained prior to conducting all Web CRD searches, and failed to ensure that all Web CRD searches were conducted for authorized purposes. **(NASD Case #2005002392101)**

Headwaters MB, LLC (CRD #117042, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted a representative to function in a registered capacity while his registration status was inactive due to his failure to complete the Regulatory Element of the NASD Continuing Education requirement. The findings stated that the firm failed to enforce its written supervisory procedures pertaining to the Regulatory Element of Continuing Education. **(NASD Case #2006003911601)**

Hold Brothers On-Line Investment Services L.L.C. (CRD #36816, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit accurate trading information through the submission of electronic blue sheets in response to NASD requests for the information. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD Rules 8211 and 8213 concerning the submission of electronic blue sheet data. **(NASD Case #2005003312502)**

HSBC Brokerage (USA), Inc. (CRD #6956, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to

engage in activities that required registration as a General Securities Representative and General Securities Principal when he was not registered as either. The findings stated that the firm began to clear its own transactions and, as a result, the firm's supervisors no longer received consolidated transactional data from its clearing firm. The findings also stated that the firm was unable to create a consolidated transaction log for supervisory review and approval as its written supervisory procedures required. (NASD Case #E102004098801)

HSBC Securities (USA) Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500, required to pay \$1,329.53, plus interest, in restitution to public customers, and required to revise its supervisory procedures addressing fair pricing and markups. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold municipal securities for its own account to a customer, and failed to sell the security at a price that was fair and reasonable, taking into consideration all relevant factors including market conditions at the time of transaction, the expense involved in effecting the transaction, that the firm was entitled to a profit and the total dollar amount of the transaction. The findings stated that the firm's written supervisory procedures for its municipal bond trading department were not reasonably designed to ensure compliance by the firm and its associated person with MSRB rules, federal securities laws and regulations concerning fair pricing and NASD rules concerning markups. (NASD Case #2005000190002)

HSBC Securities (USA) Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit the execution time for trade reports submitted to the NMC. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules related to compliance with trade reporting requirements contained in NASD Rule 6130(d)(4). The findings also stated that the firm failed

to electronically file large options position reports in conventional options with NASD and, instead, filed them manually. (NASD Case #20060043371-01)

Itradedirect.Com Corp. (CRD #18281, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve any of the firm's internal or external electronic mail communications, as SEC Rule 17a-4 and NASD Rule 3110 require. (NASD Case #2005001025901)

Lehman Brothers Inc. (CRD #7506, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported short interest positions. (NASD Case #2004100007601)

Lehman Brothers Inc. (CRD #7506, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$45,000 and required to revise its written supervisory procedures regarding order handling, best execution, anti-intimidation and coordination, customer sale transactions, and preparation and maintenance of books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning order handling, best execution, trade reporting, anti-intimidation and coordination, customer sale transactions, OATS reporting, and preparation and maintenance of books and records. The findings stated that the firm accepted customer short sale orders in securities and, for each order, failed to annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by settlement date. The findings also stated that the firm failed to correctly report trades effected in NNM securities to ACT as riskless principal, and failed to report a trade in an NNM security to ACT, failed to report the correct symbol indicating whether the firm

executed transactions in eligible securities in a principal or agency capacity to ACT, failed to report the contra side executing broker in transactions in eligible securities to ACT, failed to correctly report "riskless" principal transactions in transactions in OTC equity securities to ACT, and failed to provide written notification disclosing to its customers its correct capacity in transactions and/or that the transactions were executed at an average price. The findings also included that the firm failed to report the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt or cross for transactions in eligible securities to ACT. NASD found that the firm failed to provide classification information for apparent customer orders, unnecessarily published statistics by classifying orders as covered, which were found to be routed away and in non-market making securities, and failed to include a covered order and miscalculated the "away executed shares" in its monthly data. (NASD Case #2005000260501)

Miller Johnson Steichen Kinnard, Inc. (CRD #694, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it issued research reports concerning stock issuers that were unbalanced, unfair and made unwarranted statements, in violation of NASD Rules 2210 and 2110. (NASD Case #20050005619-01)

Natexis Bleichroeder Inc. (CRD #1101, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,500, \$7,500 of which is joint and several, and required to revise the firm's written supervisory procedures regarding best execution, "riskless" principal trade reporting, ACT reporting, short sale reporting and recordkeeping. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities through ACT, and failed to designate some last sale reports as late through ACT. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning OATS and the "Three Quote Rule." The findings also

stated that the firm failed to enforce its written supervisory procedures with respect to best execution of customer orders as agent, "riskless principal" trade reporting, ACT reporting, short sale reporting and recordkeeping. The findings also included that the firm's documentation failed to evidence that it conducted the reviews described in its written supervisory procedures.

NASD found that the firm, when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each security, its correct capacity in transactions or that transactions were executed at an average price. NASD also found that the firm, acting through an individual, failed to register a person engaged in the firm's investment banking or securities business in the registration category appropriate to the function to be performed. (NASD Case #20050002081)

Oscar Gruss & Son, Incorporated (CRD #2091, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$28,000, and required to revise its written supervisory procedures and supervisory enforcement regarding best execution, trade reporting, sale transactions, backing away, OATS, and books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report Reportable Order Events (ROEs) to OATS, and transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to report the correct symbol indicating whether transactions were buy, sell, sell short, sell short exempt or cross for transactions in eligible securities to ACT, and failed to report the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity to the NMC. The findings also stated that the firm failed to provide written notification disclosing to its customers its correct capacity in a transaction, that the transaction was executed at an average price or that the firm was a market maker. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning best execution, trade reporting, sale transactions, backing away, OATS, and books and records. (NASD Case #20050006513)

RBC Capital Markets Corporation (CRD #6579, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding NASD Rule 3010(a)(3) and (g)(1) – Supervisory System, Procedures and Qualifications (designation of OSJ offices and principals); SEC Rule 11Ac1-5 (nka Reg NMS 605) – Order Handling (disclosure of order routing information); NASD Rule 2320 – Best Execution (orders routed to other market centers as agent and regular and rigorous reviews); NASD Rules 5430, 4632, 4642, 6420, 6620 and 6130 – Trade Reporting (riskless principal trade reporting); SEC Rule 202 and NASD Rule 3370 – Sales Transactions (affirmative determination and sales in threshold securities); and NASD Rules 3340, 4120, 4120A and 6545 – Other Trading Rules (trading halt activity).

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to provide written notification disclosing its correct capacity in transactions to its customers. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning: NASD Rule 3010(a)(3) and (g)(1) – Supervisory System, Procedures and Qualifications (designation of OSJ offices and principals); SEC Rule 11Ac1-5 (nka Reg NMS 605) – Order Handling (disclosure of order routing information); NASD Rule 2320 – Best Execution (orders routed to other market centers as agent and regular and rigorous reviews); NASD Rules 5430, 4632, 4642, 6420, 6620 and 6130 – Trade Reporting (riskless principal trade reporting); SEC Rule 202 and NASD Rule 3370 – Sales Transactions (affirmative determination and sales in threshold securities); and NASD Rules 3340, 4120, 4120A and 6545 – Other Trading Rules (trading halt activity). **(NASD Case #20042000258)**

Regional Brokers, Inc. (CRD #30392, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report municipal securities transactions to the MSRB.

The findings stated that the firm failed to adopt, maintain and enforce written supervisory procedures that were reasonably designed to achieve compliance with its trade reporting obligations under MSRB Rule G-14. **(NASD Case #2006003790401)**

Summit Brokerage Services, Inc. (CRD #34643, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000, of which \$7,500 is joint and several, and required to retain an independent consultant to conduct a complete audit of the firm's policies, practices, and procedures regarding reporting requirements under NASD Rule 3070 and NASD By-Laws Article V. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain written supervisory procedures that identified the principal responsible for reviewing customer complaints, disclosures and arbitrations. The findings stated that the firm reported customer complaints late and failed to amend Forms U4 and a Form U5 in a timely manner. The findings also stated that the firm, acting through an individual, failed to maintain a supervisory system reasonably designed to achieve compliance with applicable rules and regulations, in that the individual responsible for the direct supervision of the firm's equity trader was not licensed as a Series 55 trading principal. **(NASD Case #E072004009101)**

The Shemano Group, Inc. (CRD #35528, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to have a properly licensed and registered equity trader to supervise a representative's equity trading activity. **(NASD Case #E0120050081-03)**

Thomas Weisel Partners LLC (CRD #46237, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market to OATS that were not in the electronic form prescribed

by NASD and were repairable. The findings also stated that the OATS system rejected the reports and notice of the rejection was made available to the firm on the OATS Web site, but the firm did not correct or replace many of the reports. **(NASD Case #2004200013701)**

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS and failed to timely report ROEs to OATS. The findings stated that the firm submitted orders and reports to OATS with respect to equity securities traded on the NASDAQ Stock Market that were not in the electronic form prescribed by NASD and were repairable. The findings also stated that the OATS system rejected the reports and notice of such rejection was made available to the firm on the OATS Web site, but the firm did not correct or replace most of the reports. The findings included that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. **(NASD Case #2004200005501)**

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$65,000 and required to submit a written report of the efforts it has taken to improve OATS reporting and supervision. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, and erroneously submitted Execution Reports it routed away for handling and/or execution to OATS. The findings stated that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market to OATS that were not in the electronic form prescribed by NASD and were repairable. The findings also stated that the OATS system rejected the reports and notice of the rejection was made available on the OATS Web site, but the firm did not correct or replace any of the reports. **(NASD Case #2004200014401)**

Vision Securities, Inc. (CRD #35001, Melville, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined

\$27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to fully comply with the Firm Element of NASD's Continuing Education requirements for the years 2001 and 2002 by failing to maintain records documenting the content of its continuing education programs and completion of the programs by covered registered persons. The findings stated that the firm failed to develop an anti-money laundering (AML) program reasonably designed to achieve and monitor its compliance with the requirements of the Bank Secrecy Act and the implementing regulations promulgated thereunder. The findings also stated that the firm failed to create or maintain a Business Continuity Plan. The findings also included that while conducting a securities business, the firm failed to maintain the minimum required net capital. **(NASD Case #ELI20050012-01)**

vFinance Investments, Inc. (CRD #44962, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and required to revise its supervisory procedures with respect to SEC Rule 11Ac1-5 (nka Reg. NMS 605), SEC Rule 11Ac1-6 (nka Reg. NMS 606), regular and rigorous reviews, riskless principal trade reporting, supervisory system, procedures and qualification, NASD Rule 2320 (best execution) and trading rules regarding activity during trading halts and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning SEC Rule 11Ac1-5 (nka Reg. NMS 605), SEC Rule 11Ac1-6 (nka Reg. NMS 606), regular and rigorous reviews, riskless principal trade reporting, supervisory system, procedures and qualification, NASD Rule 2320 (best execution), and trading rules regarding activity during trading halts and OATS. The findings stated that the firm failed to enforce its written supervisory procedures with respect to customer short sale reporting and OATS. The findings also stated that the firm made available reports on covered orders in national market system securities that it received for execution from any person that contained material, inaccurate order execution statistics. **(NASD Case #20050035967-01)**

Wachovia Securities, LLC (CRD #19616, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in spite of indicators that a registered representative of the firm was operating a fraudulent Ponzi scheme and using firm stationery to create false account statements, it failed to conduct a meaningful investigation of the individual's activities and to contact the customers regarding their receiving funds from the individual and his fictitious entity. The findings stated that the firm failed to establish and maintain a system to supervise the representative's activities that was reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules. The findings also stated that the firm failed to review other bank statements, did not ask the representative for a contact within the fictitious organization or review any of his customer accounts to see if they had written checks to the fictitious organization. (NASD Case #2005001720503)

Wedbush Morgan Securities, Inc. (CRD #877, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS, failed to mark whether customer orders were long or short sales transactions, and failed to maintain a daily trading ledger showing the firm's positions and proprietary transactions executed in connection with customer trades reported to ACT as riskless principal. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules relating to personnel registration and qualifications, order handling and execution, anti-intimidation and coordination, trade reporting, customer sales transactions, short sales transactions, OATS, best execution and books and records. The findings also stated that the firm incorrectly reported its capacity for transactions in NNM securities through the NMC and reported a transaction as riskless principal when the transaction was not executed at the same price. The findings also included that the firm failed to report to the NMC the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency

capacity, incorrectly reported a long sale as a short exempt sale for a transaction in eligible securities, reported trade cancellations that should not have been reported, and executed short sale orders and failed to properly mark the order tickets as long or short for the orders. (NASD Case #2005000251801)

Wilson-Davis & Co., Inc. (CRD #3777, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures concerning limit order protection, best execution, "regular & rigorous" reviews, the "Three Quote Rule," trade reporting, and books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each order was at a price that would have improved the firm's bid or offer in each security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. The findings stated that the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in the market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to show the correct entry time on brokerage order memoranda. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning limit order protection, best execution, "regular & rigorous" reviews, the "Three Quote Rule," trade reporting, and books and records. NASD found that the firm failed to enforce its written supervisory procedures with respect to best execution and "regular & rigorous" reviews. (NASD Case #2005000061701)

Individuals Barred or Suspended

Joseph Abbondante (CRD #1879052, Registered Principal, Freehold, New Jersey) was barred from association with any NASD member in any capacity and ordered to pay \$276,265, plus interest, in restitution to public customers. The United States Court of Appeals

upheld the Securities and Exchange Commission's decision affirming the National Adjudicatory Council's (NAC) findings. The sanctions were based on findings that Abbondante engaged in private securities transactions without providing prior written notice to, and obtaining prior written approval from, his member firm. The findings stated that Abbondante engaged in an outside business activity without providing written notice to his member firm. The findings also stated that Abbondante engaged in material misrepresentation and omission of material facts in connection with his recommendation of an investment to public customers. The findings also included that Abbondante caused to be created, and knowingly facilitated an individual in providing, fictitious account statements purporting to show pertinent information to their investments. **(NASD Case #C1020020090-01)**

Henry Carl Barefield (CRD #4075146, Registered Principal, Chicago, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Barefield received \$10,000 from a public customer to be credited to a mutual fund in her IRA but co-endorsed the checks, deposited them into his own account and used the funds for some purpose other than to benefit the customer without her knowledge or consent. The findings stated that Barefield forged a customer's signature on forms requesting distribution of \$40,690 from the customer's accounts, deposited the funds into his own account and used the funds for some purpose other than to benefit the customer without her knowledge or consent. The findings also stated that Barefield received a \$4,000 check from the customer to re-deposit in her annuity, but deposited the check into his own account and used the funds for some purpose other than to benefit the customer without her knowledge or consent. The findings also included that Barefield received \$13,000 from a public customer to purchase mutual fund shares but used the funds for some purpose other than to benefit the customer. NASD found that Barefield failed to respond to NASD requests for information and documents. **(NASD Case #2005000934401)**

Gerard Francis Byrne (CRD #1032847, Registered Representative, Short Hills, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Byrne obtained a wrongful extension of credit in violation of

Section 7(f) of the Exchange Act and Regulation X promulgated thereunder. The findings stated that Byrne failed to post trades made in his personal margin account to the clearing firm, which caused his member firm's books and records to be inaccurate. **(NASD Case #20050008469-01)**

Juan Manuel Carranza Jr. (CRD #4893986, Associated Person, Travis AFB, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Carranza reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Carranza consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from January 16, 2007, through April 15, 2007. **(NASD Case #2005000409501)**

Tom Chau (CRD #2373251, Registered Representative, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Chau reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Chau consented to the described sanctions and to the entry of findings that he shared in a public customer's trading loss by causing \$40,000 to be deposited in the customer's account. Chau did not obtain written authorization from the customer or his member firm before making the deposit.

The suspension in any capacity is in effect from February 20, 2007, through March 21, 2007. **(NASD Case #20060050897-01)**

Hong Joon Chun (CRD #3205680, Registered Representative, Forest Hills, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Chun failed to appear for an NASD on-the-record interview. The findings stated that Chun sent a response letter to a public customer without making the letter available to

his member firm for prior supervisory review and approval, thus preventing the firm from discharging its obligation to review outgoing correspondence. **(NASD Case #E1020041114-01)**

Michael L. Donaldson (CRD #4489845, Registered Representative, Jamaica, New York) submitted a Letter of Acceptance, Waiver and consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Donaldson reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Donaldson consented to the described sanctions and to the entry of findings that he failed to timely respond to NASD requests for information and documentation.

The suspension in any capacity is in effect from February 5, 2007, through March 19, 2007. **(NASD Case #2005003622002)**

Morton Bruce Erenstein (CRD #201845, Registered Representative, Boca Raton, Florida) was suspended from association with any NASD member in any capacity for one year. The NAC imposed the sanction following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Erenstein failed to answer a question during an NASD on-the-record interview. The findings stated that Erenstein failed to timely respond to an NASD request for documents and information.

This decision has been appealed to the Securities and Exchange Commission (SEC), and the sanction is not in effect pending consideration of the appeal. **(NASD Case #C9B20040080)**

Byron D. Forsythe (CRD #4910101, Registered Representative, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Forsythe consented to the described sanction and to the entry of findings that he falsely represented to his member firm, in writing, that he had taken and passed the Series 6 examination and failed the Series 63 examination when he had failed to appear for both examinations. The findings stated that Forsythe failed to timely respond to NASD requests for information. **(NASD Case #2006004236902)**

George Kelly Francis Jr. (CRD #2668503, Registered Representative, Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any NASD member in any capacity for 30 days. In light of Francis' financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Francis consented to the described sanction and to the entry of findings that he engaged in a private securities transaction without providing prior written notice to his member firm describing in detail the proposed transaction, his role therein, and stating whether or not he had received, or might receive, selling compensation.

The suspension in any capacity was in effect from February 5, 2007, through March 6, 2007. **(NASD Case #2005002917301)**

Robert Allen Frost (CRD #1067640, Registered Representative, Temecula, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Frost consented to the described sanction and to the entry of findings that he engaged in outside business activities, for compensation, without providing prompt written notice to his member firm. The findings stated that Frost maintained a desk in a local bank, falsely told a public customer that he was a salaried bank employee, and failed to disclose that he was a registered representative with a firm and received transaction-based commissions. The findings also stated that Frost recommended a securities transaction to a public customer without having a reasonable basis for believing the transaction was suitable for the customer based upon her age, financial objectives, situation and needs. The findings also included that Frost failed to fully and timely respond to NASD requests for information. **(NASD Case #20050013646-01)**

Dan Alan Harbertson (CRD #1007005, Registered Principal, Severna Park, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the findings, Harbertson consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from January 16, 2007, through April 15, 2007. (NASD Case #2006006474101)

Brown Jin Ho (CRD #2340460, Registered Principal, San Marino, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for four months. The fine must be paid before Ho reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Ho consented to the described sanctions and to the entry of findings that he signed customers' names on account transfer forms without the customers' knowledge or consent, and submitted them to his member firm to effect the transfer of the accounts from his previous firm to his new firm. The findings stated that, after learning that one of the customers had complained about the unauthorized transfer, Ho contacted the customer several times to persuade her to drop the complaint without advising his firm.

The suspension in any capacity is in effect from February 20, 2007, through June 19, 2007. (NASD Case #20050035972-01)

Richard Horton III (CRD #2944981, Registered Principal, Camden, New Jersey) submitted an Offer of settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Horton consented to the described sanction and to the entry of findings that he improperly attempted to have his member firm reimburse him for his personal expenses. (NASD Case# 2005003570601)

Donald Scott Huffman (CRD #4449502, Registered Representative, Boardman, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Huffman received \$5,600 from public customers to purchase insurance but failed to apply the funds as directed and, instead, used the funds for his own benefit, thereby misusing customer funds. The findings also stated that Huffman issued a false business document to a public customer representing that her unoccupied house was insured when it was not. (NASD Case #E8A2004067501)

Nathan Dale Layman (CRD #4022928, Registered Representative, Farmersville, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Layman consented to the described sanction and to the entry of findings that he effected, or caused to be effected, the purchase and sale of securities in public customers' accounts without their knowledge or authorization. The findings stated that Layman forged a public customer's signature to a "Switch Letter/ Repositioning of Assets Form," which Layman's member firm required in order to effectuate the unauthorized transactions. (NASD Case #2005001687401)

Jeffrey Michael Martinous (CRD #3011007, Registered Representative, Quincy, Massachusetts) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Martinous reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Martinous consented to the described sanctions and to the entry of findings that without a public customer's consent or authority, he sold the customer's mutual fund shares and used the proceeds to purchase shares of another fund. The findings stated that Martinous signed, or caused to be signed, the customer's signature on documents that were required to effect the mutual fund transaction.

The suspension in any capacity is in effect from February 5, 2007, through February 4, 2008. (NASD Case #2005001624101)

Gregory Roy Masceri (CRD #727672, Registered Representative, Rochester, New York) was barred from association with any NASD member in any capacity. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Masceri forged public customers' signatures on insurance documents without the customers' authorization or consent. The findings also stated that Masceri responded untruthfully to NASD requests for information. (NASD Case #C8A20040079)

Joseph James Montalbano (CRD #4675694, Registered Principal, Fishkill, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with

any NASD member in any capacity for nine months. The fine must be paid before Montalbano reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Montalbano consented to the described sanctions and to the entry of findings that he signed the public customers' names on updated risk tolerance questionnaires without their knowledge or authorization.

The suspension in any capacity is in effect from February 5, 2007, through November 4, 2007. **(NASD Case #2006005043901)**

David A. Ohlson (CRD #2027621, Registered Representative, Plainfield, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Ohlson consented to the described sanction and to the entry of findings that he failed to disclose a material fact on his Form U4. **(NASD Case #20050033982-01)**

Elvis Sylvester Parkes (CRD #2358223, Registered Representative, Floral Park, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, ordered to pay \$4,142.87 in restitution to public customers and suspended from association with any NASD member in any capacity for 35 days. Without admitting or denying the findings, Parkes consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, the purchase and sale of securities in the public customers' accounts without their knowledge, authorization or consent.

The suspension in any capacity was in effect from February 5, 2007, through March 11, 2007. **(NASD Case #20050014908-01)**

Robert Sean Paruch Jr. (CRD #3139293, Registered Representative, Bay Harbor Island, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Paruch offered and sold shares of common stock to public customers when there was no registration statement filed or in effect with the SEC with respect to the common stocks as required by Section 5 of the Securities Act of 1933, and the transactions were not exempt from registration requirements. The findings stated that Paruch engaged in acts operating as a fraud

or deceit in connection with the purchase or sale of securities. The findings also stated that Paruch misused public customers' funds intended to pay for their stock purchases and solicited investors to purchase securities without the benefit of a general securities representative registration. **(NASD Case #EFL2004000401)**

Randall Dean Poe (CRD #2348692, Registered Representative, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Poe consented to the described sanction and to the entry of findings that he made a withdrawal of \$23,501.33 from a public customer's account without her authorization, knowledge or consent, with the purpose of earning commissions for himself. The findings stated that Poe forged the customer's signature on annuity contracts without her authorization, knowledge or consent. The findings also stated that Poe engaged in outside business activities, for compensation, and failed to provide prompt written notice to his member firm. **(NASD Case #20060045558-01)**

Arthur Charles Rosen (CRD #404170, Registered Representative, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$9,000, which includes a \$4,000 disgorgement of financial benefits he received, and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Rosen reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Rosen consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, outside the scope of his employment with his member firm without providing his member firm with prior written notice.

The suspension in any capacity is in effect from January 16, 2007, through April 15, 2007. **(NASD Case #2005003404501)**

Raghavan Sathianathan (CRD #1743692, Registered Representative, Montclair, New Jersey) was barred from association with any NASD member in any capacity. The SEC sustained sanctions the NAC affirmed following an OHO decision. The sanctions were based

on findings that Sathianathan recommended and effected securities transactions for public customers that were not suitable in light of the customers' financial situations, investment objectives, circumstances and needs. The findings stated that Sathianathan exercised discretion in a customer's account without the customer's prior written authorization and his member firm's acceptance of the account as discretionary.

This decision has been appealed to the U.S. Court of Appeals and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C9B20030076)**

David Lee Steadman (CRD #2371970, Registered Representative, Virginia Beach, Virginia) was barred from association with any NASD member in any capacity. The sanction was based on findings that Steadman forged public customers' signatures on documents without the customers' authorization or consent. The findings also stated that Steadman failed to respond to NASD requests for an on-the-record interview. **(NASD Case #2005000613301)**

Viswanathan Sundaresan (CRD #2699304, Registered Representative, Flushing, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Sundaresan reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Sundaresan consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from February 5, 2007, through March 19, 2007. **(NASD Case #20050032093-01)**

James Casey Timmons (CRD #4949617, Registered Representative, Childress, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Timmons reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification.

Without admitting or denying the findings, Timmons consented to the described sanctions and to the entry of findings that, without a public customer's knowledge or consent, he affixed, or caused to be affixed, the customer's signature to a disclosure letter that purported to acknowledge the fact that a pending variable universal life insurance policy constituted a modified endowment contract, and that he had explained to the customer the tax implications involved.

The suspension in any capacity is in effect from February 5, 2007, through April 5, 2007. **(NASD Case #20060049237-01)**

Jorge Luis Torres (CRD #2777878, Registered Representative, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Torres consented to the described sanction and to the entry of findings that he withdrew \$47,000 from a public customer's account without the customer's knowledge or authorization, and converted the funds for his own use and benefit. The findings also stated that Torres failed to respond to NASD requests for information. **(NASD Case #2006005044401)**

Travis Donald Wakeley (CRD #1305643, Registered Representative, Hurst, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Wakeley consented to the described sanction and to the entry of findings that he engaged in private securities transactions without providing prior written or verbal notice to his member firm describing in detail the proposed transactions, his role therein and whether he had received, or might receive, compensation in connection with the transactions. The findings stated that Wakeley engaged in outside business activities without providing prompt written notice to his member firm. The findings also stated that Wakeley made an investment recommendation to a public customer without having reasonable grounds for believing that the recommendation was suitable for the customer based on her age, risk tolerance, investment objective, investment experience and net worth. **(NASD Case #2005001267501)**

Michael Patrick Walsh (CRD #4366426, Registered Representative, Capitola, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Walsh reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Walsh consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from February 5, 2007, through May 4, 2007. **(NASD Case #20050028832-01)**

Individuals Fined

Guillherme Loos Martins (CRD #4585724, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Martins consented to the described sanctions and to the entry of findings that, while associated with his member firm, he engaged in activities requiring registration while his registration status with NASD was inactive due to his failure to complete the Continuing Education Regulatory Element requirement. **(NASD Case #20050020893-02)**

Claudia Joanne McElwee (CRD #2575420, Registered Principal, Carrollton, Texas) submitted a Letter of Acceptance, Waiver and Consent in which she was censured and fined \$10,000, of which \$5,000 was assessed joint and several. The fine must be paid before McElwee reassociates with any NASD member, or before she requests relief from any statutory disqualification. Without admitting or denying the findings, McElwee consented to the described sanctions and to the entry of findings that she failed to timely file an application with NASD for approval of a change in ownership of her member firm. The findings stated that McElwee performed the duties of a Financial and Operations Principal (FINOP) on her member firm's behalf without being registered as a FINOP. **(NASD Case #2005000468501)**

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC as of January 31, 2007. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed the decisions. Initial decisions which time for appeal has not yet expired will be reported in the next *Notices to Members*.

Keith Howard Medeck (CRD #3011429, Registered Representative, Bayport, New York) was barred from association with any NASD member in any capacity and ordered to pay \$41,493, plus interest, in restitution to a public customer. The sanctions were based on findings that Medeck recommended transactions to a public customer without having reasonable grounds for believing that such transactions were suitable for the customer in light of the size and frequency of the transactions, the nature of the customer's account and his financial situation, investment objectives and needs. The findings stated that Medeck intentionally and aggressively churned the customer's account to generate commissions.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #E9B2003033701)**

Complaint Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents NASD's initiation of a formal proceeding 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.

Charles Louis Bolton III (CRD #1753380, Registered Principal, Scottsdale, Arizona) was named as a respondent in an NASD complaint alleging that he received \$99,000 from a public customer for investment purposes, but failed to invest the funds as the customer intended and conducted unauthorized transactions in the customer's account. The complaint also alleges that

Bolton failed to respond to NASD requests for information. (NASD Case #2006004356201)

Michael David McClellan (CRD #4369132, Registered Representative, Fort Wayne, Indiana) was named as a respondent in an NASD complaint alleging that he recommended and effected securities transactions in a public customer's account without having a reasonable basis for believing that the transactions were suitable for the customer based on his age, net worth, liquid net worth, financial situation and investment objectives. The complaint also alleges that McClellan failed to respond to NASD requests for documents and information. (NASD Case #E8A2004095001)

Michael James Resciniti (CRD #4006304, Registered Representative, Sound Beach, New York) was named as a respondent in an NASD complaint alleging that he effected, or caused to be effected, transactions in a public customer's account without the customer's prior knowledge, authorization or consent. (NASD Case #ELI20030562-01)

Plase Michael Tansil (CRD #2317768, Registered Representative, Murfreesboro, Tennessee) was named as a respondent in an NASD complaint alleging that he made an improper guarantee to public customers, misused customer funds to cover a shortfall regarding the guarantee, made material misrepresentations to customers that their funds would be used for investment purposes, and settled a customer complaint without his member firm's knowledge or consent. (NASD Case #2005002229201)

Firms Suspended for Failure to Supply Financial Information

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Graydon-Elliott Capital, LLC
Abbotsford, Canada
(January 8, 2007)

InCap Securities, Inc.
Baltimore, Maryland
(January 5, 2007 – February 9, 2007)

Firms Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Archer Alexander Securities Corporation
Kansas City, Missouri
(January 8, 2007)

Essex & York, Inc.
New York, New York
(January 30, 2007)

Trautman Wasserman & Company, Inc.
New York, New York
(January 8, 2007)

Individual Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Edwin Nazaire
Red Bank, New Jersey
(January 2, 2007)

Individuals Barred Pursuant to NASD Rule 9552(h)

Michael Andrew Capul
Manhasset Hills, New York
(January 31, 2007)

Faith Yvette Dove
Bronx, New York
(January 11, 2007)

David Frederick Patton
Goliad, Texas
(January 22, 2007)

Cheryl Janette Suggs
Rockingham, North Carolina
(January 12, 2007)

Individuals Suspended Pursuant to NASD Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

John Rholtz Blot
Brooklyn, New York
(January 8, 2007)

Kathy Ann Bowling
Midland, Texas
(January 16, 2007)

Vince Morgan Brotherton
Friday Harbor, Washington
(January 9, 2007)

Richard R. Chervenak
Newcomerstown, Ohio
(January 24, 2007)

Robert Joseph Crawford
Port Jefferson, New York
(January 16, 2007)

Robert Dane Freeman
Travelers Rest, South Carolina
(January 16, 2007)

Chad Eric Steiner
Dunlap, Illinois
(January 3, 2007)

Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Theodore David Beckman
Avon Lake, Ohio
(January 18, 2007)

Jason Briggs
New York, New York
(January 29, 2007)

Art De La Rosa
Walnut, California
(January 19, 2007)

Anthony Joseph Fareri
Lighthouse Point, Florida
(January 29, 2007)

Leon Fintz
N. Bellmore, New York
(January 3, 2007)

Lawrence Suemitsu Furukawa
Honolulu, Hawaii
(January 8, 2007)

Ronnie William Flint
Stuart, Florida
(January 4, 2007)

Gregg Francis Gallagher
Port Washington, New York
(January 29, 2007)

Harold Bailey Gallison
Las Vegas, Nevada
(January 23, 2007)

Carlos Antonio Garceran
Mendham, New Jersey
(January 8, 2007)

Gregory Mumtaz Hasho
Coram, New York
(January 3, 2007)

David Martin Ritz
Dallas, Texas
(January 31, 2007 – February 9, 2007)

Gary Alan Rusche
Glendale, Arizona
(January 10, 2007)

Stephen Jefferson Sumner
Orlando, Florida
(August 8, 2006 – January 8, 2007)

Daniel V. Scouler
New York, New York
(January 29, 2007)

Roger Wa Spillmann
Corona, California
(January 29, 2007)

NASD Fines Banc of America Investment Services, Inc. \$3 Million for Failing to Comply With Anti-Money Laundering Rules in Connection With High Risk Accounts

Firm Failed to Heed Repeated Requests for Information from Its Own Clearing Firm

NASD has fined Banc of America Investment Services, Inc. (BAI) \$3 million in connection with the firm's failure to obtain customer information for certain high-risk accounts and for failing to have adequate communication with its parent bank to ensure that BAI's independent suspicious activity report (SAR) filing obligations were met.

"The anti-money laundering and terrorist financing laws are designed to ensure that customer and transaction risks are assessed and that firms take appropriate steps to address high risks," said NASD Executive Vice President and Head of Enforcement James S. Shorris. "BAI fundamentally failed to meet its obligations with these high risk accounts by failing to adequately investigate and pursue red flags, especially in the face of repeated requests for additional information about the accountholders from its own clearing firm."

NASD found that BAI failed to obtain required additional customer information for high risk accounts. The 34 accounts at issue involved trust and private investment corporations domiciled in the Isle of Man and apparently affiliated with one family. The offshore entities located in the Isle of Man collectively held from \$79 million to \$93 million in assets and engaged in multi-million-dollar wire transfers across international boundaries. At the time the accounts were opened in August 2003, BAI had established anti-money laundering procedures designed to address certain customer account risks by requiring additional information from the accountholders, specifically, the names of the beneficial owners, before conducting substantial transactions in the accounts.

Nevertheless, from August 2003 to Oct. 22, 2004, BAI did not require the names of the beneficial owners and never restricted the activities in the accounts. BAI allowed the accounts to engage in large wire transactions, even though BAI did not have beneficial ownership information for them. In addition, throughout this time period, the firm continued to allow significant transactions to occur in the accounts despite

the advice from a senior lawyer at BAI in March 2004 that BAI should obtain the names of the beneficial owners, and a determination by the BAI risk committee in May 2004 that the information must be obtained.

Further, despite repeated and ongoing requests by its clearing firm, BAI failed to obtain the names of the beneficial owners, and to provide them to its clearing firm. Over a 10-month period, BAI received from its clearing firm numerous requests for ownership information and notices pointing out circumstances that could signal money-laundering activity. Some at BAI expressed concerns that insisting upon the beneficial ownership information might cause the account holders to move the accounts to another institution. But without the names of the beneficial owners, BAI could not reasonably evaluate whether activity in the accounts, which had been brought to BAI's attention by its clearing firm, was suspicious and reportable.

In addition, NASD also found that BAI had an inadequate compliance program for reporting suspicious transactions. While BAI relied on its parent, a bank with its own independent reporting obligations, to determine whether a suspicious activity report (SAR) should be filed, BAI did not have sufficient procedures in place to ensure that there was adequate communication between BAI and its parent as to whether a SAR should be filed and whether a SAR had in fact been filed. Consequently, BAI did not make certain that its independent obligations regarding the filing of a SAR were met. BAI was also unable to reliably incorporate the information that a SAR had been filed into an ongoing risk assessment of its customers and to evaluate account activity going forward.

In concluding this settlement, BAI neither admitted nor denied the findings, but consented to their entry.