

Regulatory & Compliance Alert

A PUBLICATION OF NASD

REGISTRATION & DISCLOSURE

Last Print Issue of RCA

A new Web-only publication will be available early next year.

2003 NASD Renewal Program Update

Beginning January 2, 2003, member firms' Final Renewal Statements will be available on Web CRD and IARD. This statement will reflect the final status of firm and agent registrations as of December 31, 2002. Any adjustments in fees owed as a result of registration terminations or approvals subsequent to the Preliminary Renewal Statement will be made in this final, recalculated statement. Since this reconciled statement has been adjusted to reflect the payments firms made in response to the November Preliminary Renewal Statement, the "Amount Due" or "Credit Due" reflects any additional amount due at this time or any credit your firm may be owed by NASD. The total fees are based on the year-end calculation for the number of agent and firm registration approvals held by your firm subject to year 2003 Renewal Fees (as assessed by the participating states and the NYSE, AMEX, CBOE, ISE, PCX, and PHLX).

Final Renewal Statements:

For the retrieval and payment of your Final Renewal Statement, follow these steps:

- 1 Logon to Web CRD.
- 2 You will be required to enter your User Name and Password. Please note: The Web CRD System requires users to change their passwords every 120 days. If you have not logged onto the system in the past 120 days, you will be prompted to change your password after you logon.
- 3 Accept the disclaimer. The system will then display the Site Map.
- 4 From the Site Map, click on the 'Renewal Statement' link under the 'Accounting' section.

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- 5 The total adjusted amount on your firm's Final Renewal Statement will be one of the following:
- ➡ If your statement shows a zero balance due, your total fees due as of year-end were equal to the total fees paid by your firm; no further action is required.
 - ➡ If your statement shows an amount due less than the amount initially paid by your firm (*i.e.*, negative amount or credit balance), then your firm has overpaid and will be credited the balance.
 - ➡ If your statement shows the amount due to be greater than the amount initially paid (*i.e.*, positive amount or debit balance), then your firm needs to pay the balance to NASD by **March 14, 2003**.

The Final Renewal Statement will list:

- ➡ The number of agents with approved registrations with specific regulators and the amount paid to the regulators to renew the registrations.
- ➡ The regulators with which the firm is registered and the amount paid to the regulators to renew the registrations.
- ➡ The number of agents having an approved registration with NASD for 2002 and the amount paid to NASD. This appears on the statement as the NASD Personnel Assessment Fee. *This year the Statement will indicate a "0" amount as, beginning with this 2003 Renewal Program, NASD Personnel Assessment Fees will no longer be assessed through the annual Renewal Program. NASD will mail all NASD member firms a separate billing during the 1st quarter of 2003. Please see NASD Notice to Members 02-41 for more details.*
- ➡ The NASD System Processing Fee, which will be charged for any agent who is renewed through Web CRD regardless of the regulator with which the agent is registered.
- ➡ The number of branch offices having a renewed registration with NASD for 2002 and the amount paid to NASD.

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- ➔ The total adjusted amount due. If the amount due is less than the amount initially paid, the firm will be credited. Please note that this year, if the firm is due a credit, on January 6, 2003, NASD will transfer the credited amount to the firm's Daily (registration) Account. Conversely, if the amount due is greater than the amount initially paid, the firm needs to pay the balance.
- ➔ For firms that failed to renew with regulators other than NASD, only NASD-related fees (*i.e.*, Branch Fees, Registration Fees, and the System Processing Fee) will appear on the Final Renewal Statement.

If your firm has more agents and/or branch offices registered at year's end than it did in November when the Preliminary Renewal Statement was generated, your Final Renewal Statement will have an "amount due" (*i.e.*, positive amount or debit balance), then the total NASD, AMEX, CBOE, ISE, PCX, PHLX, and state fees paid on your behalf exceeded your Preliminary Renewal Payment.

Renewal Late Payment Fee:

New this year, NASD will assess a Renewal Late Payment Fee to all NASD members that did not pay their Preliminary Statement by the 2003 Renewal Payment deadline of December 6, 2002. If payment was not received, in full, by the December 6 payment due date, your firm will be assessed a Renewal Late Payment Fee on your firm's Final Renewal Statement. This Renewal Late Payment Fee will be calculated as follows: 10% of a member firm's cumulative Final Renewal Assessment or \$100, whichever is greater, with a cap of \$5,000. Complete details regarding the new Renewal Late Payment Fee can be found in *NASD Notice to Members 02-48*.

Payment Methods:

Firms must submit payment of their Final Renewal Statement by **March 14, 2003**. They may submit their payment by various methods:

- ➔ **Electronic Payment** via Web CRD/IARD E-Pay.

- ➔ **Check** – Make checks payable to NASD and be sure to indicate your firm's CRD number on the check. For complete information regarding Renewal Payment methods and addresses, including wire transfers and check payments, visit our Web Site at www.nasdr.com/3400_renewal_payments.asp.
- ➔ **Wire Transfer** – For complete information regarding Renewal Payment methods and addresses, including wire transfers and check payments, visit our Web Site at www.nasdr.com/3400_renewal_payments.asp.
- ➔ **Payment by Transfer of Funds from Daily Account** to request a transfer from your firm's Daily (registration) Account to your firm's Renewal Account. Firms can request this transfer over the phone. Please call the NASD Call Center at (301) 869-6699.

Refund Requests:

If your statement reflects a "credit due" (i.e., negative amount or credit balance), then your firm's Preliminary Renewal Payment exceeded the total fees due. On January 6, 2003, all 2003 Renewal overpayments by firms made to NASD will systematically be transferred to firms' Daily Accounts. Firms may request refund checks from NASD from their Daily Accounts or may leave the funds in their Daily Accounts to use for future registration fees. To request a refund check, have an appropriate signatory sign the first page of the Final Renewal Statement and mail it by **March 14, 2003**, to NASD. Firms should send Renewal Refund requests to:

NASD
Discoverly
User Support—CRD Accounting
9509 Key West Avenue
Rockville, MD 20850
(240) 386-4848

If your statement shows a zero balance due, your total fees due as of year-end were equal to the total fees paid by your firm; no further action is required.

Final Renewal Reports:

During the Final Renewal Period (January 2, 2003 - October 2003), firms will be able to request the Final Renewal Reports. These reports should be made a permanent part of your records. Standard reports are automatically provided in both HTML and in PDF formats. All of the reports are also available in a downloadable version. The Final Renewal Reports are:

- ➔ **Firm Renewal Report** – applicable to Broker/Dealer and Investment Adviser firms. This report will list all renewed personnel with NASD, the NYSE, AMEX, CBOE, ISE, PCX, PHLX, and/or each jurisdiction. Persons whose registrations are “approved” with any of these regulators during November and December will be included in this report, while registrations that are still pending approval or are deficient at year’s end will not be included in the 2003 Renewal Program nor will they be listed on the report. If the firm has supplied billing codes, they will be available on this report.
- ➔ **Branches Renewal Report** – applicable to NASD members. This report lists each branch registered with NASD and lists branch offices for which the firm is being assessed a fee. Firms should use this report to reconcile their records for Renewal purposes.

Report Discrepancies:

The 2003 NASD Renewal Program includes a reconciliation period expiring **March 14, 2003**. Firms will have approximately two months in which to reconcile any discrepancies on their Final Renewal Reports. To resolve discrepancies, all regulators should be contacted directly in writing.

If your firm finds any discrepancies between its records and those maintained on Web CRD for NASD, either contact the Gateway Call Center at (301) 869-6699 and have copies of appropriate documentation readily available or report the discrepancy, in writing, to the NASD Registration and Disclosure Department User Support-Research Unit no later than **March 15, 2003**. Copies of all appropriate documentation (such as Notices of Approval/Termination, copies of U-4 or U-5, or Schedule E Amendments, etc.) should be included.

Send Renewal Report discrepancies to:

NASD
Discoverly
User Support—Research
9509 Key West Avenue
Rockville, MD 20850
(301) 869-6699

If your review of the Final Renewal Report reveals any NYSE/AMEX/CBOE/ISE/PCX/PHLX or jurisdiction discrepancies between your firm's records and those maintained on Web CRD, your firm must report the discrepancy directly to the appropriate regulatory authority, in writing, before March 15, 2003. All regulators should be contacted directly in writing. A complete listing of regulators, including their addresses, is located on the CRD Pages of the NASD Web Site, www.nasdr.com/3400.asp.

All firms and individuals listed in the Firm Renewal Report that renew and failed to renew will be reported to each respective regulator for the calendar year 2003. The Final Renewal Reports should be reviewed promptly to determine if all state Broker/Dealer firm, Agent (AG) and, if applicable, Investment Adviser firm and Investment Adviser representative (RA) registrations, as of year-end 2002, through Web CRD and IARD have been reported to the respective regulators. For a complete listing of all regulators participating in this year's NASD Renewal Program, please see the SRO/State Regulator's Directory on the NASD Web Site, www.nasdr.com/3400.asp.

If Your Firm Fails to Renew:

If your firm fails to pay the full amount due on the Preliminary Renewal Statement, the Agent (AG) and Investment Adviser representative (RA) registrations will terminate as of December 31, 2002. The firm will have to contact each regulator in which it was registered to request individual and firm re-registration instructions. *Please be advised that many jurisdictions levy fines for failure to renew properly.*

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On January 2, 2003, you will be able to retrieve a Final Renewal Statement that has been adjusted for NASD fees only, including a list of NASD branch offices and a list of agents registered with NASD. If the firm pays the Final Renewal Statement, in full, the NASD **registration only can be** renewed for 2002.

All jurisdiction Agent (AG) [and if applicable Investment Adviser representative (RA) registrations for your firm] will terminate effective December 31, 2002, except California, which does not assess its annual Renewal fees for Agents/individuals through the 2003 NASD Renewal Program. In addition, your firm's jurisdiction registration will be terminated effective December 31, 2002, if your firm was registered for 2002 in a jurisdiction that participates in the Web CRD/IARD Automatic Failure to Renew Program. This program provides jurisdictions the ability to authorize NASD to systematically terminate the firm's registration, on behalf of the jurisdiction, with a termination date of December 31, 2002, if the firm fails to pay the full amount of its Preliminary Renewal Statement. **All Agent (AG) and Investment Adviser representative (RA) registrations will be systematically terminated** if a firm fails to pay its Renewal Fees, regardless of whether a jurisdiction participates in the Automatic Fail to Renew Program on firm level.

Your firm will have to contact the jurisdictions in which you were registered for further instructions and information on reapplying for firm and/or individual registrations. If you are instructed by a state to re-file Forms U-4 and/or BD with Web CRD to reinstate Agent (AG), Investment Adviser representative (RA), or Broker/Dealer registrations or Form ADV to reinstate Investment Adviser Firm registration/Notice Filing with IARD, your firm will be assessed the applicable registration fees.

If your firm fails to renew and your firm's registration is terminated in a jurisdiction because the jurisdiction participates in the Automatic Fail to Renew Program this year, contact the jurisdiction for further instructions and information on reapplying for firm registration.

Questions regarding Final Renewal Statements, payments, or reports should be directed to the NASD Gateway Call Center at (301) 869-6699.

Introducing Web EFTSM

Web EFT is a new, more robust, state-of-the-art electronic file transfer application that NASD will be deploying in 2003 and will replace the current legacy CRD Electronic File Transfer (EFT) system. This Web-based, electronic document transfer system will allow firms that choose to subscribe to interface with Web CRD and IARD in an automated manner and transfer filing information across the Internet in the form of uploads and downloads from their internal systems. It will offer firms the ability to upload "batched" data to NASD and will provide subscribers reports containing the results of filing processing, as well as downloads of registration and accounting activity.

The Web-based EFT application will allow firms increased functionality in terms of batch filing options and data access than the current legacy EFT application and it will provide firms the following benefits:

- ➔ Ten filing types that can be submitted as electronic file transfers.
- ➔ Improved access to firm data.
- ➔ The elimination of double entry of filings, thus reducing costs, reducing data entry errors, and improving filing turnaround times.
- ➔ File transfers that have increased security.
- ➔ EFT download service that will provide eight CRD/IARD data reports.

The new Web EFT system is specifically being designed to better distribute large amounts of data to firms with downloads that will be easier to use in support of system-to-system transfer. The proposed annual subscription fees in 2003 for firms for this new, secure, Web-based technology are:

- ➔ \$300 per month Form Filing Fee (\$3,600 per year)
- ➔ \$150 per month Data Download Fee (\$1,800 per year)

or

- ➔ \$400 per month Form Filing & Data Download Fee (\$4,800 per year)

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Participating firms will be required to develop a new interface based on the technical specifications for Web EFT. NASD is currently working closely with a pilot group of industry participants to refine specifications for Web EFT and incorporate all of the information a firm will need to evaluate and make a decision on Web EFT batch filing/data download participation.

Web EFT for Web CRD/IARD is targeted to be deployed in conjunction with Web CRD Software Release 5.0, currently scheduled for the end of the first quarter of 2003. For additional information related to Web EFT, please visit www.nasdr.com/3400_eft.asp. At this site you will find the following documents:

- ➔ *Web EFT Batch Filing Functionality* – compares the filing types currently accepted via legacy EFT with those that will be accepted in Web EFT.
- ➔ *Web EFT Download Reports* – compares the reports currently available via legacy EFT with those that will be available in Web EFT.

For questions that you may have regarding Web EFT, please contact Bill Swanstrom, NASD Registration and Disclosure, at (240) 386-4731.

Web CRD/IARD E-Pay Reminder

Since October 1, 2002, firms have been able to make electronic payments to fund their CRD and IARD Daily and/or Renewal Accounts with NASD through an online application, Web CRD/IARD E-Pay. With the addition of Web CRD/IARD E-Pay, a firm can now authorize electronic payment directly from its designated bank account to the firm's Daily and/or Renewal Accounts. NASD does not charge firms any fees for using Web CRD/IARD E-Pay; however, firms should verify with their banks whether any ACH transaction fees will be assessed by the bank for using Web CRD/IARD E-Pay. Firms still have the option of funding their Daily and/or Renewal Accounts by either check or wire transfer also.

The features of Web CRD/IARD E-Pay include:

- ➔ **Online Enrollment** – Firms will be able to establish an E-Pay User ID and set an E-Pay Password by completing a simple online Enrollment Form available through the Web CRD/IARD E-Pay link.
- ➔ **Timely Payment to the Firm's Daily and/or Renewal Accounts** – ACH payments that are submitted by 8:30 p.m., Eastern Time (ET), should be posted within two business days to the firm's Daily and/or Renewal Accounts with NASD.
- ➔ **Viewable Web CRD/IARD E-Pay History** – A user may view all E-Payments submitted by him/her in the past 180 days. E-Pay History information will include:
 - ◆ Confirmation Number
 - ◆ Firm CRD Number
 - ◆ E-Payment Date (The date the E-Payment was submitted.)
 - ◆ Account Type (Daily or Renewal)
 - ◆ Total Payment Amount
- ➔ **Ability to Update E-Pay User Profile** – Firms can update their own E-Pay User Profile information, including updated or changed bank account information and contact information.
- ➔ **Ability to Update Passwords** – Firms can reset a forgotten password or change an E-Pay Password at any time.

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Web CRD/IARD E-Pay has been well received by the industry as a payment option to fund firms' CRD and IARD Accounts. Since its implementation in October, 1,878 users have enrolled.

The Web CRD/IARD E-Pay is available through a link accessible on either of the following Web Sites:

NASD Web Site at: www.nasdr.com/3400.asp

IARD Web Site at: www.iard.com

Questions regarding Web CRD/IARD E-Pay may be directed to the Gateway Call Center at (301) 869-6699.

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Electronic Fingerprints to be Implemented in 2003

Electronic Fingerprint functionality is proposed to begin with Web CRDSM Software Release 5.1, currently scheduled for early summer of 2003. Electronic fingerprint handling will greatly automate the current process and reduce current turnaround times. The time from NASD submission of the card to receipt of the results from the FBI will be shortened to 72 hours, cutting weeks off current turnarounds. Member firms will be able to learn within a few days of possible statutory disqualifications and problematic criminal history information (CHRI).

With this new fingerprint functionality, NASD is proposing a \$2 Fingerprint Card Fee increase, raising the NASD fee to \$12, to cover both the technical development and the maintenance costs for this timesaving, new Web CRD functionality. The proposed fee increase is contingent upon NASD Board approval and is subject to change. The FBI fee of \$22 will remain the same.

Post Release 5.1 enhancements to the Electronic Fingerprint functionality are currently being reviewed. Potential future functionality would include an electronic link between member firms and NASD, thus expediting the process even further. NASD will continue to look to the industry for feedback and ideas and will keep members updated in future communications.

Questions regarding the proposed fee increase or the Electronic Fingerprint functionality slated for implementation mid-2003 may be directed to Mary Ann Shaw, NASD Registration and Disclosure, at (240) 386-4806.

Recent Amendments to Rule 3010 (Supervision)

In connection with developing new rules to address trading in security futures, NASD has made amendments to Rule 3010 (Supervision) that apply generally to all NASD members. NASD wishes to emphasize that these important changes apply to all members whether or not they conduct a business in security futures.

As further discussed below, NASD has amended Rule 3010(e) to require an NASD member to review a job applicant's Commodity Futures Trading Commission (CFTC) Form 8-T, *Notice of Termination of Associated Person* (Form 8-T), from the applicant's most recent employer that was a member of a registered futures association and was notice registered as a broker/dealer with the Securities and Exchange Commission (SEC) to engage in a securities futures business, if any.¹ NASD also has amended Rule 3010(b)(2) (referred to as the "Taping Rule") to include as "Disciplined Firms" for purposes of the Rule those Futures Commission Merchants (FCMs) and Introducing Brokers (IBs) that have a certain disciplinary history with the CFTC or a registered futures association.

The legislation authorizing the trading of security futures,² defines "security futures" as both securities under the federal securities laws³ and as futures contracts for purposes of the Commodity Exchange Act (CEA).⁴ The legislation also sets forth a regulatory model in which the SEC and the CFTC jointly have jurisdiction over the intermediaries and markets that trade security futures. Broker/dealers that wish to conduct a business in security futures are required to notice register with the CFTC as FCMs or IBs.⁵ Similarly, FCMs and IBs are required to notice register with the SEC as broker/dealers if they wish to conduct a business in security futures.⁶ Firms that are fully registered as both FCMs or IBs and broker/dealers may engage in a security futures business without any notice registration.

1 15 U.S.C. 78o(b)(11).

2 Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-554, 114 Stat. 2763.

3 See, e.g., Securities Exchange Act of 1934 (Exchange Act) Section 3(a)(10) (15 U.S.C. 78c(a)(10)).

4 The term "security future" is defined in CEA Section 1a(31) (7 U.S.C. 1a(31)) as a contract of sale for future delivery of a single security or a narrow-based security index. Under CEA Section 1a(33) (7 U.S.C. 1a(33)), the term "security futures product" is defined as a security future or an option on a security future.

5 CEA Section 4f(a)(2) (7 U.S.C. 6f(a)(2)); 66 FR 43080 (August 17, 2001).

6 Exchange Act Section 15(b)(11)(a)(i) (15 U.S.C. 78o(b)(11)(a)(i)); 66 FR 45138 (August 27, 2001).

The addition of FCMs and IBs engaging in a securities business, albeit only a security futures business, prompted certain changes to Rule 3010 discussed below.

Qualifications Investigated

Rule 3010(e) requires that members investigate “the good character, business repute, qualifications, and experience” of a job applicant before the member applies to register that applicant with NASD. Because some individuals will now be engaging in a securities business in notice registered broker/dealers (limited to security futures), NASD believes that members should consider these activities in determining whether to sponsor these individuals for registration. Accordingly, in connection with sponsoring an individual for registration, all NASD members must review a copy of CFTC Form 8-T from an applicant’s most recent previous employer that was a member of a registered futures association and was notice registered as a broker/dealer with the SEC to engage in a securities futures business, if any. Please note that this requirement is in addition to the existing requirement to review a Form U-5 from the applicant’s most recent previous NASD member employer. The information on Form 8-T is essentially the same information contained in Form U-5. NASD believes that an individual’s prior experience at an FCM or IB that conducts a security futures business may have particular bearing on his or her fitness to be sponsored by an NASD member. Members will be able to review the Form 8-T by requesting it from the applicant or the applicant’s previous employer.

Taping Rule

Rule 3010(b)(2), known as the “Taping Rule,” requires that members that hire a certain percentage of registered persons that have been employed by a Disciplined Firm must establish, maintain, and enforce special written procedures for supervising the telemarketing activities of their registered persons. NASD members subject to the Taping Rule are required to tape record “all telephone conversations between the member’s registered persons and both existing and potential customers.”

REGULATORY SHORT TAKES

Again, because certain FCMs and IBs will now be engaging in a securities business (limited to security futures), NASD has determined that the definition of “Disciplined Firm” should be expanded to include such firms if they have certain disciplinary history. In the futures industry, the National Futures Association (NFA) has a taping rule that is similar to NASD’s rule. NASD has incorporated the NFA’s definition of “Disciplined Firm” into Rule 3010(b)(2)(J) with the further limitation that the disciplinary action must pertain to security futures activities. Thus, NASD’s definition of “Disciplined Firm” now includes a notice registered broker/dealer that:

- (1) has been formally charged by either the CFTC or a registered futures association with deceptive telemarketing practices or promotional material relating to security futures, those charges have been resolved, and the FCM or IB has been closed down and permanently barred from the futures industry as a result of those charges; or
- (2) an FCM or IB that, in connection with sales practices involving the offer, purchase, or sale of security futures is subject to an order of the SEC revoking its registration as a broker or dealer.

This revised definition of “Disciplined Firm” is relevant to all NASD members, not just those engaging in a security futures business. An NASD member that does not engage in a security futures business may nevertheless trigger the requirements of the Taping Rule by hiring employees from a firm that meets the definition of Disciplined Firm by virtue of having been disciplined for violations committed in connection with its security futures activities.

Questions about this article may be directed to Gary Goldsholle, Office of General Counsel, NASD Regulatory Policy and Oversight, at (202) 728-8104, or Patricia Albrecht, Office of General Counsel, NASD Regulatory Policy and Oversight, at (202) 728-8026.

NASD Reminds Members and Applicants about the Importance of Submitting Complete Applications in Membership Proceedings

The NASD Membership Rules were designed to provide an efficient mechanism for firms to apply for membership (Rule 1013) and for existing members to request approval for ownership and other significant changes in their business (Rule 1017). Both rules require firms to submit specific information in support of an application. The Membership Rules also prescribe deadlines for a number of steps that are part of the application process and an overall requirement that decisions by NASD staff on applications be made within 180 days. NASD staff endeavors to reach decisions on each application as quickly as possible after all necessary information has been gathered and analyzed.

Our experience shows that NASD staff is far better able to expedite the processing of an application when the applicant furnishes complete materials at the outset. The rules are clear as to the information required to accompany each application, and there are substantial explanatory tools on the NASD Web Site (www.nasd.com) to assist applicants in filing complete applications. We encourage applicants to contact their local District Office in advance of submitting the application with any questions about the content requirements.

The Membership Rules provide that applications will be returned to applicants and will not be processed if the NASD District Office does not receive a “substantially complete” application. See Rules 1013(a)(4) (new member applications) and 1017(d) (continuing membership applications). The purpose of this requirement is to avoid the problems and delays that inevitably occur when staff is required to devote an inordinate amount of the time at the outset to identifying large amounts of missing materials in an application and corresponding, in many cases on multiple occasions, with an applicant in order to develop complete information. The staff approaches this requirement with some flexibility, recognizing that it is not always possible for applicants to submit everything required under the rules with the initial application. However, staff has experienced a significant number of cases in which applicants omit substantial amounts of important information that makes it difficult to evaluate the application and impossible to do so expeditiously.

NASD reminds members and applicants for membership that the Membership Rules require the submission of substantially complete applications, and we offer the following guidance.

REGULATORY SHORT TAKES

- ➔ In preparing a new membership application, an applicant is expected to have considered and addressed, at a minimum, the following key categories: (1) proposed business activities; (2) supervision; (3) required contractual arrangements; (4) financial and operations issues; (5) qualifications; and (6) net capital (including the sources). The key categories of information are based on the filing requirements of Rule 1013. Further, an applicant should indicate, for information that may not yet be available (for example, fidelity bond, clearing agreement), when District staff can expect to receive such information.
- ➔ In preparing a continuing membership application, Rule 1017(b)(2) requires: (1) a detailed description of the change in ownership, control, or business operations; (2) a business plan; (3) pro forma financials; (4) an organizational chart; and (5) written supervisory procedures reflecting the change. If the application seeks approval for a change in ownership or control, the application is also required to include: the names of the new owners, their percentage of ownership, the sources of their funding for the purchase and, if applicable, recapitalization of the member. If the application requests approval of an increase in Associated Persons involved in sales, offices, or markets made, the application should set forth the increases in such areas during the past 12 months.

NASD is in the process of undertaking a comprehensive review and revision of application materials and the educational information contained on the NASD Web Site. We welcome suggestions for improving the content of these materials.

Please contact Karin Neudorfer, NASD MAP Manager, NASD Member Regulation, at (202) 728-6954, with comments or questions.

NASD Reminds Firms of E-Mail Addresses Established to Report System Outages to Market Regulation Department

In the Winter 2000 *Regulatory & Compliance Alert* (2000 RCA), NASD provided the e-mail addresses specified below so that members could notify NASD's Market Regulation Department (the "staff") of system problems that impacted a member's ability to comply with certain SEC and NASD rules. Because firms experience system problems in the normal course of business and in connection with the implementation of new processes relating to market developments such as SuperMontage and TRACE, NASD staff is reminding members of these e-mail addresses, the purpose for which the e-mails are to be used, and the information that should be included in the e-mail messages.

As noted in the 2000 RCA, NASD staff performs periodic surveillance reviews or "sweeps" of the industry for compliance with a variety of rules including, among others, the Securities and Exchange Commission (SEC) Order Handling Rules and NASD rules relating to trade reporting for equities and corporate bonds (TRACE), ACT compliance, trading during a halt, and trade-or-move obligations. Using sophisticated automated technology, the staff reviews the trading and market making activity of all member firms. Where warranted, the staff's review may result in the imposition of informal or formal disciplinary action.

As part of its review, the staff considers whether a system outage or other technology-related problem caused, or contributed to, a member's failure to comply with a rule. To address such issues earlier in the "sweep" process, the Market Regulation Department established an e-mail address so that members can alert the staff when system outages or other technology-related problems have impeded the members' ability to comply with certain SEC or NASD rules. The staff uses the contemporaneous record created from the members' messages left at the e-mail address to evaluate the results of surveillance "sweeps." On a case-by-case basis, the staff will determine whether the incidents identified in that record should be viewed as a mitigating factor. NASD staff notes that any mitigation resulting from the notification of system problems is affected, among other things, by the cause, magnitude, duration, and frequency of the system problem. In addition, the promptness of the notification and the extent to which the member firm proactively addresses the problem will also be considered in assessing mitigation. It should be noted that the reporting of system problems in cases involving extended periods of non-compliance caused by such problems may not, by itself, have a mitigating effect unless the member firm can document sustained efforts to solve the problem.

REGULATORY SHORT TAKES

In the event a member experiences a system outage or other technology-related problem that impacts that member's ability to meet the obligations imposed by the applicable rules, the member should send a message to the appropriate e-mail address below that includes the following information:

- ➔ the date(s) the system problem occurred;
- ➔ the specific systems that were affected (e.g., the member's internal systems, third party vendor system);
- ➔ the exact nature of the problem (e.g., complete outage, slow transmission times);
- ➔ the time the problem began;
- ➔ the time the member first detected the problem;
- ➔ the time the problem was resolved and a brief description of the resolution;
- ➔ the level of activity impacted (e.g., the approximate number of trades not reported) and a description of how the impact will be addressed (e.g., trade reports to be submitted on an "as of" basis the next business day);
- ➔ contact name and telephone number; and
- ➔ any additional information deemed relevant by the member firm reporting the problem.

All system outages or technology-related problems involving equities should be reported to tradereporting@nasd.com. All system outages or other technology-related problems involving TRACE should be reported to bondreporting@nasd.com.

Testing Update

Excellence in Service Award for Testing Centers

NASD established an Excellence In Service Award Program for those centers that consistently achieve excellence in the areas of customer service and performance.

The awards are made in April, June, October, and January for the previous calendar quarter.

The Excellence In Service Award winners for third quarter 2002 are:

NOTE: A number beside the city name represents the number of consecutive quarter awards.

2	Anaheim Hills CA		Santa Rosa CA	4	Englewood CO
	Casselberry FL	3	Orlando FL	2	Sarasota FL
	Atlanta GA		Homewood IL	2	Indianapolis IN
	Terre Haute IN	3	Salisbury MD	2	Waltham MA
	Grand Rapids MI	3	Utica MI		Rochester MN
3	Bismarck ND	2	Columbus NE		Garden City NY
	Ithaca NY	7	Melville NY	2	Cincinnati OH
7	Cuyahoga Hills OH	2	Niles OH	7	Strongsville OH
10	Oklahoma City OK		North Hills PA	11	Pittsburgh (NH) PA
	Nashville TN	15	Memphis TN	2	Arlington TX
	Dallas TX		San Antonio TX		Roanoke VA
	Williston VT	15	Fox Point WI		New Berlin WI
	Morgantown WV				

Web-Based Appointment Scheduling and Confirmation System for Online Exam Scheduling is Now Available

Firms and employees of firms who have registered through Web CRD to take a computer-based exam can now schedule and confirm exam appointments through Prometric's online Appointment Scheduling and Confirmation Web Site.

QUALIFICATIONS/TESTING/ CONTINUING EDUCATION

A sponsoring firm of the candidate must first request an examination on Web CRD before the candidate or firm can schedule an exam appointment using the online scheduling system.

NOTE: Appointments CANNOT be rescheduled or canceled via the Web Site. If an appointment needs to be rescheduled or canceled, the candidate or firm must call Prometric's toll-free number at 1-800-578-6273.

Two methods for accessing the Web Site are available:

www.nasdr.com/2630_confirm.asp, which provides instruction for using the Web Site, and a link to the scheduling and confirmation Web Site

OR

www.2test.com, which provides direct access to the Prometric Web Site

Test Center Locations – Domestic and International

A current list of all test center locations, both domestic and international, is published on the NASD Web Site. Access our Web Page to get up-to-date location information.

Questions about this article may be directed to Linda Christensen, NASD Member Regulation, at 610-627-0377.

CURRENT AS OF DECEMBER 2002

Certification Testing & Continuing Education Delivery Location List

Alabama

Birmingham	205-871-7444
Decatur	205-350-8324
Dothan	334-677-6334
Mobile	334-344-6284
Montgomery	334-262-0043

Alaska

Anchorage	907-276-6007
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Arizona

Goodyear	623-932-7800
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Arkansas

Fort Smith	501-484-0702
Little Rock	501-663-8280

California

Anaheim	714-637-7894
Atascadero	805-462-8308
Brea	714-255-1141
Camarillo	805-389-6595
Culver City	310-337-6696
Diamond Bar	909-861-1146
Gardena	310-329-1844
Glendale	818-545-7383
Irvine	949-552-0563
La Mesa	619-668-2121
Rancho Cucamonga	909-944-9763
Redlands	909-792-2145
Riverside	909-353-8600
Sacramento	
(Fair Oaks)	916-961-7323
San Diego	858-526-0858
San Francisco	
-California St	415-362-1311
San Francisco	
-Oyster Point	650-244-9558
San Jose	408-246-0072
Santa Rosa	707-528-6000

Canada

Calgary AB	403-777-1365
Etobicoke ON	416-236-2629 Ext. 221
Halifax NS	902-422-7323
Montreal QU	514-876-8818
Richmond BC	604-231-1966
Saskatoon SK	306-978-7323
Whitby ON	905-404-1818
Winnipeg MB	204-988-5056

Colorado

Boulder	303-449-1700
Colorado Springs	719-593-1272
Denver	303-692-8745
Littleton	303-972-7276

Connecticut

Glastonbury	860-633-7236
Hamden	203-287-9677
Norwalk	203-847-0031

Delaware

Dover	302-741-0412
Wilmington	302-998-3817

District of Columbia

Washington	202-955-5887
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Florida

Davie	954-423-0782
Ft. Myers	941-275-1130
Gainesville	352-371-6891
Hollywood	954-967-0443
Jacksonville	904-739-3000
Maitland/Orlando	407-875-8118
Sarasota	941-923-9399
Tallahassee	850-386-8707
Tampa	813-289-1246
Temple Terrace (Tampa)	813-989-9988
Winter Park	407-671-2332

Georgia

Atlanta (Tucker)	770-493-9813
Augusta	706-868-1888
Jonesboro	770-478-5356
Macon	912-474-5909
Marietta	770-980-1117
Savannah	912-354-2660
Valdosta	912-245-1069

Idaho

Boise	208-322-3555
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Illinois

Carbondale	618-529-4664
Carpentersville	847-836-2031
Chicago-S. Wabash	312-663-5632
Homewood	708-798-0238
Northbrook	847-559-2461
Peoria	309-683-4653
Springfield	217-546-0381
Westchester	708-947-2800

Indiana

Evansville	812-479-6855
Fort Wayne	260-481-4153
Indianapolis-E. 86th St.	317-257-7546
Indianapolis -Girl's School Rd	317-486-4541
Lafayette	765-447-0626
Merrillville	219-736-1113
Mishawaka	219-254-1055
Terre Haute	812-232-6348

Iowa

Bettendorf	319-359-1001
Des Moines	515-223-6650

Kansas

Topeka	785-272-7500
Wichita	316-651-5350

Kentucky

Lexington	859-268-3338
Louisville	502-423-0340

Louisiana

Baton Rouge	225-293-8489
Bossier City	318-742-7349
New Orleans	504-245-2600

Maine

Orono	207-581-1708
Portland	207-775-5812

Maryland

Baltimore	410-843-6401
Bethesda	301-718-9893
Columbia	410-740-8137
Lanham	301-552-3400
Pikesville	410-486-9045
Salisbury	410-341-4100

Massachusetts

Boston	617-345-8980
Brookline	617-264-4152
Burlington	781-221-7860
E. Longmeadow	413-525-4901
Worcester	508-853-7250

Michigan

Ann Arbor	734-477-6970
Grand Rapids	616-957-0368
Lansing	517-372-7413
Livonia	734-462-2750
Portage	616-321-8351
Troy	248-643-7323
Utica	810-739-0270

Minnesota

Duluth	218-723-1494
Edina	952-820-5010
Rochester	507-292-9270
St. Cloud	320-529-4830
Woodbury	651-702-6791

Mississippi

Jackson	601-366-6400
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Missouri

Ballwin	314-394-7742
Jefferson City	573-761-7317
Lee's Summit	816-525-5445
Springfield	417-882-0740
St. Joseph	816-671-9900
St. Louis	314-993-9092

Montana

Billings	406-656-4646
Helena	406-443-9205

Nebraska

Columbus	402-564-2862
Lincoln	402-465-8800
Omaha	402-334-9449

Nevada

Las Vegas	702-795-7323
Reno	702-829-2700

New Hampshire

Portsmouth	603-433-6800
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New Jersey

Deptford	856-384-4744
East Brunswick	732-390-4040
Edison	732-248-5469
Fairlawn	201-475-1670
Hamilton Township	609-631-9794
Toms River	732-349-4609
Union	908-964-2862

New Mexico

Albuquerque	505-296-0609
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New York

Albany	518-438-6762
Amherst/Buffalo	716-565-0570
East Syracuse	315-433-9038
Garden City	516-746-7367
Ithaca	607-277-4821
Manhasset	516-869-1238
Melville	516-845-9063
NYC Manhattan Area	212-760-1137
NYC Midtown Area	800-578-6273
NYC Penn Plaza-15th fl	800-578-6273
NYC Penn Plaza-17th fl	800-578-6273
NYC Wall Street Area (Liberty Plaza)	646-625-6050
NYC Wall Street Area (Rector St.)	212-566-7055
Rego Park	718-997-6356
Rochester	716-385-4810
Staten Island	718-980-3079
Vestal	607-798-1715
Wappingers Falls	845-298-8378
Watertown	315-788-2588
White Plains	914-289-0437

North Carolina

Asheville	828-253-4224
Charlotte	704-364-7758
Greensboro	336-288-1311
Greenville	252-756-0342
Raleigh	919-846-1975
Wilmington	910-392-0891

North Dakota

Bismarck	701-224-1171
Fargo	701-293-1234

Ohio

Cincinnati	513-671-7030
Columbus	614-451-4131
Cuyahoga Falls-Akron	330-922-5587
Dayton	937-435-8417
Hilliard	614-529-4232
Lima	419-331-7323
Mentor	440-255-0055
Niles	330-652-1886
Reynoldsburg	614-864-4090
Strongsville	440-238-0530

Oklahoma

Oklahoma City	405-843-8378
Tulsa	918-249-0820

Oregon

Eugene	541-485-4589
Milwaukie	503-659-9575
Portland	503-254-2009

Pennsylvania

Allentown	610-791-5320
Clark Summit	717-586-4362
Erie	814-864-6100
Harrisburg	717-652-0646
Lancaster	717-392-2193
North Wales	215-412-7822
Philadelphia	215-238-8380
Pittsburgh-North Hills	412-367-4620
Pittsburgh- -Braddock Ave.	412-247-4463
Plymouth Meeting	610-941-6284
York	717-755-7471

Puerto Rico

Guaynabo	787-706-7640
Hato Rey	787-753-6394
Warwick	401-738-9172

South Carolina

Charleston	843-766-5599
Columbia	803-354-9221
Greenville	864-676-1506
Irmo	803-749-0356

South Dakota

Sioux Falls	605-362-4875
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Tennessee

Chattanooga	423-894-6249
Clarksville	931-647-2003
Franklin	615-790-5018
Knoxville	423-690-0671
Madison-Nashville	615-860-0376
Memphis	901-266-4606

Texas

Abilene	915-698-7858
Amarillo	806-359-1037
Arlington	817-572-6690
Austin	512-441-1978
Beaumont	409-899-9798
Corpus Christi	361-993-3793
Dallas	972-385-1181
El Paso	915-587-7323
Mesquite	972-686-3310
Midland	915-520-9418
San Antonio	210-494-7263
Sugar Land	281-491-9200
Tyler	903-510-2842
Waco	254-772-2467
Webster	281-557-0358

Utah

Orem	801-226-5544
Salt Lake City	800-578-6273

Vermont

Williston	802-872-0845
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Virgin Islands

St. Croix	340-773-5751
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Virginia

Arlington/DC Area	703-807-5813
Glen Allen	804-346-8777
Lynchburg	804-832-0778
Newport News	757-873-0208
Roanoke	540-344-3688

Washington

Lynnwood	425-774-3922
Puyallup	253-848-0771
Spokane	509-467-8715

West Virginia

Morgantown	304-293-0699
South Charleston	304-345-1986

Wisconsin

Fox Point	414-540-2223
Madison	608-231-6270
New Berlin	414-796-0836
Racine	414-554-9009

Wyoming

Casper	307-472-4888
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Disciplinary Actions

In October, November, and December 2002, NASD announced the following disciplinary actions against these firms and individuals. Publication of these sanctions alerts members and their associated persons to actionable behavior and the penalties that may result. This information is current as of December 2002.

District 1 Northern California (the counties of Monterey, San Benito, Fresno, and Inyo, and the remainder of the state north or west of such counties), northern Nevada (the counties of Esmeralda and Nye, and the remainder of the state north or west of such counties), and Hawaii

October Actions

Robin Bruce McNabb (CRD #1016598, Registered Principal, San Jose, California) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The United States Court of Appeals affirmed the sanctions following appeal of an October 2000 SEC decision. The sanctions were based on findings that McNabb participated in private securities transactions without giving prior written notification to his member firm. In addition, McNabb recommended to public customers the purchase of securities without having reasonable grounds for believing that the investments were suitable for the customers in light of the facts disclosed by the customers as to their other securities holdings, financial situation, and needs. **(NASD Case #C01970021)**

Victoria Ann Sperbeck (CRD #1413447, Registered Principal, Stockton, California) was barred from association with any NASD member in any capacity for failure to respond to NASD requests for information. Sperbeck also failed to disclose material information on an amended Form U-4. **(NASD Case #C01020008)**

U.S. Rica Financial, Inc. (CRD #38742, San Jose, California) and Vinh Huu Nguyen (CRD #2374393, Registered Principal, San Jose, California) were fined \$133,579.83 jointly and severally, the firm was expelled from NASD membership, and Nguyen was barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Nguyen, represented to customers on the firm's Web site and on trade confirmations that they would be, or had been, charged commissions in accordance with the firm's published commissions schedule, or that trades would be, or had been, effected for "free," when in fact the firm effected customer trades on a riskless principal basis through the firm's proprietary account and charged the customers undisclosed markups and markdowns, thereby earning and retaining "secret profits" of \$58,579.83 as well as commissions on these trades. In addition, the firm, acting through Nguyen, failed to make appropriate memoranda of brokerage orders reflecting time of entry and time of execution of purchases of securities from other broker/dealers into the firm's inventory account and sales of securities to other broker/dealers from the firm's inventory account.

The firm and Nguyen have appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C01000003)**

November Actions

Troy Anthony Litle (CRD #1364827, Registered Representative, Fresno, 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 10 business days. Without admitting or denying the allegations, Litle consented to the described sanctions and to the entry of findings that, without prior approval of his member firm, he distributed sales literature in the form of a letter to public customers concerning a variable annuity that was an incomplete description of the product's features and therefore contained unwarranted, exaggerated, and misleading statements.

Litle's suspension is deemed served based on a suspension imposed by his member firm. **(NASD Case #C01020015)**

PCI* Trade Securities (CRD #40650, Fremont, California) and Shixiong Liu (CRD #2217632, Registered Principal, Fremont, California) submitted an Offer of Settlement in which they were censured and fined \$11,454.46, jointly and severally. The fine included disgorgement of \$3,954.46 in commissions paid to Liu. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Liu performed activities as a registered person and performed duties in a capacity requiring registration, and the firm permitted him to perform such activities, duties, and functions, when Liu was deemed inactive for failure to complete the Regulatory Element of Continuing Education. NASD found that the firm, acting through Liu, failed to comply with the Firm Element of the Continuing Education Requirement for the firm's covered personnel in that it failed to perform a written needs analysis and create a written training plan as set forth in NASD Membership and Registration Rule 1120(b). **(NASD Case #C01020010)**

James Richard Wamsley (CRD #1149112, Registered Representative, Petaluma, California) was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that Wamsley prepared a letter to a former customer concerning a tax deferred annuity and signed his manager's name to the letter and sent it

to the customer without his manager's knowledge and without approval of anyone at his member firm.

Wamsley's suspension began October 7, 2002, and will conclude at the close of business October 6, 2004. **(NASD Case #C01010017)**

December Actions

Edward Eyden Breeden (CRD #2954280, Registered Representative, Santa Cruz, 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 six months. The fine must be paid before Breeden reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Breeden consented to the described sanctions and to the entry of findings that he signed the names of public customers on "Alternate Mail Instructions" forms corresponding to the customers' accounts with his member firm without the customers' knowledge or authorization.

Breeden's suspension began November 18, 2002, and will conclude May 17, 2003. **(NASD Case #C01020017)**

William Hubert Davis (CRD #62734, Registered Representative, Claremont, California) submitted an Offer of Settlement in which he was fined \$5,700, including \$700 in commissions received by Davis, and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Davis reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Davis consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without providing prior written notification to his member firm.

Davis' suspension began November 18, 2002, and concluded at the close of business December 2, 2002. **(NASD Case #C01020013)**

E*Trade Securities, Inc. (CRD #29106, Rancho Cordova, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$155,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to

report e-mail and written customer complaints in its quarterly statistical report to NASD. The findings also stated that the firm failed to establish written supervisory procedures that were reasonably designed to ensure that customer complaints received via e-mail were properly reported, and thereby failed to supervise adequately the reporting of such complaints. In addition, NASD found that the firm filed reports of arbitration awards or settlement agreements late, failed to maintain books and records in connection with an initial public offering, failed to maintain e-mail and customer profiles, and failed to maintain evidence of reconfirmations of interest from public customers. Furthermore, the findings stated that the firm failed to provide accurate and complete information to NASD. NASD also found that the firm failed to register as an authorized Fixed Income Pricing SystemSM (FIPSSM) participant, and failed to report FIPS high-yield and mandatory bond transactions within five minutes. (NASD Case #C01020016)

Scott Lowell Nattenberg (CRD #2444899, Registered Principal, Ewa Beach, Hawaii) 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 allegations, Nattenberg consented to the described sanction and to the entry of findings that he obtained a cashiers check for \$100,000 for investment purposes from a public customer, deposited the check into a securities account under his control, and used the funds for his personal benefit to the exclusion of the customer. (NASD Case #C01020018)

District 2 Southern California (that part of the state south or east of the counties of Monterey, San Benito, Fresno, and Inyo), southern Nevada (that part of the state south or east of the counties of Esmeralda and Nye), and the former U.S. Trust Territories

October Actions

Lawrence Ronald Legind (CRD #2830571, Registered Representative, Corona Del Mar, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Legind engaged in private securities transactions and failed to provide prior written notice to, and receive written permission from, his member firm. The findings also stated that Legind guaranteed customers against loss. (NASD Case #C02010062)

Reza H. Mahini (CRD #2040798, Registered Representative, Bell Canyon, 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 allegations, Mahini consented to the described sanction and to the entry of findings that he obtained possession of \$581,734.66 in checks payable to a public customer and, without the customer's approval, knowledge, or consent, forged the customer's signature endorsement to each check and deposited the same into his own personal bank account, thereby converting the funds to his own use and benefit. (NASD Case #C02020042)

Daniel Richard Schmidt (CRD #2652062, Registered Representative, Newport Beach, California) 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, Schmidt consented to the described sanction and to the entry of findings that he signed public customers' names to Contribution Change Forms (CCFs) without their authorization, knowledge, or consent, and submitted them to his member firm requesting an increase in the customers' monthly payroll deductions for which he received \$520 in commission advances. The proposed payroll deduction increases were not effectuated because Schmidt failed to submit salary reduction agreements (SRAs) along with the forged CCFs. (NASD Case #C02020030)

November Actions

Anthony Harold Barkate (CRD #1255255, Registered Principal, Bakersfield, California) was fined \$400,144, to be reduced by any amounts that had been paid in disgorgement of commissions to public customers, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Barkate engaged in private securities transactions without providing prompt written notice to, or receiving approval from, his member firm regarding his activities.

Barkate has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C02010041)

Anthony Brian John Black (CRD #1582391, Registered Supervisor, San Diego, 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 allegations, Black consented to the described sanction and to the entry of findings that, without public customers' knowledge or consent, he affixed the customers' and other necessary signatures on multiple letters of authorization (LOAs), withdrew \$140,000 in customer funds from a variable annuity contract, transferred these funds to a bank account under his ownership and control, and used the funds for his personal use. **(NASD Case #C02020051)**

Jason Phillip Bronston (CRD #2635605, Registered Representative, West Hills, 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 allegations, Bronston consented to the described sanction and to the entry of findings that he received and converted \$77,000 in customer funds intended for investment purposes. The findings also stated that Bronston failed to respond to NASD requests for information. **(NASD Case #C02020047)**

Gary Charles Klein (CRD #1731164, 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 allegations, Klein consented to the described sanction and to the entry of findings that he opened, or caused to be opened, a securities brokerage account at another member firm and executed transactions in the account without providing written notification to his member firm of his intentions to execute these transactions, and failed to advise the other firm of his association with his member firm. The findings stated that Klein opened the account pursuant to an oral understanding he had with a public customer at his firm through which Klein and the customer agreed to treat the account as a partnership account and that they would share equally in any profits in the account. NASD found that Klein opened the account in his name only and never received written authorization from the firm to share in the profits in the account with the customer. The findings also stated that Klein exercised discretionary authority in the account by executing all equity transactions without obtaining the customer's prior written authorization and his member firm's written acceptance of the account as discretionary. In addition, NASD found that Klein received \$68,032.83 in customer

funds intended to be deposited in the account, did not apply all the funds as directed by the customer, and instead, without the customer's knowledge or consent, misused \$4,532.82, which he did not deposit until after six months of receipt. **(NASD Case #C02020043)**

Consuelo Velasco Marcelino (CRD #2832189, Registered Representative, Glendale, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Marcelino reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Marcelino consented to the described sanctions and to the entry of findings that, in an attempt to expedite the opening of a public customer's account, she affixed the customer's signature on a new account application without the customer's knowledge or consent.

Marcelino's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. **(NASD Case #C02020050)**

Leland Keith Ozawa, Jr. (CRD #2119830, Registered Representative, Las Vegas, Nevada) 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 two months. Without admitting or denying the allegations, Ozawa consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Ozawa's suspension began October 21, 2002, and will conclude at the close of business December 20, 2002. **(NASD Case #C02020046)**

Jeri Lynn Winberg (CRD #3177708, Registered Representative, Poway, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Winberg reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Winberg consented to the described sanctions and to the entry of findings that, in an attempt to expedite the opening

of a public customer's account, she affixed the customer's name on an account application and signature card without the customer's knowledge or consent.

Winberg's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. (NASD Case #C02020049)

Steven Boyle Yamashiro (CRD #1953754, Registered Principal, Pasadena, 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 20 days. Without admitting or denying the allegations, Yamashiro consented to the described sanctions and to the entry of findings that he entered into a written agreement with a public customer in which he guaranteed that he personally would purchase from the customer identified equities in the customer's portfolio, at a pre-determined price, if the price available in the public market did not exceed the customer's acquisition price or a percentage thereof.

Yamashiro's suspension began November 4, 2002, and will conclude November 23, 2002. (NASD Case #C02020048)

December Actions

William John Friess (CRD #814694, Registered Principal, San Diego, 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 principal capacity for 15 business days. Without admitting or denying the allegations, Friess consented to the described sanctions and to the entry of findings that he failed to supervise a registered representative in a manner that was reasonably designed to achieve compliance with certain NASD and SEC rules.

Friess' suspension began December 2, 2002, and will conclude at the close of business December 20, 2002. (NASD Case #C02020053)

Vaughn Lee Woods (CRD #853692, Registered Principal, La Jolla, California) 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 10 business days. Without admitting or

denying the allegations, Woods consented to the described sanctions and to the entry of findings that he recommended purchases, plus related sales, of certain general equity securities in the retirement accounts of public customers and, because certain regulations governing the retirement accounts prohibit investments in any general equity securities, the transactions underlying the recommendations were impermissible and therefore not suitable for these types of retirement accounts.

Woods' suspension began December 2, 2002, and concluded at the close of business December 13, 2002. (NASD Case #C02020052)

District 3 Alaska, Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming

District 3A Denver

October Actions

Rebecca Susan Barnard (CRD #1342721, Registered Representative, Tucson, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Barnard consented to the described sanction and to the entry of findings that she obtained \$566,000 by borrowing funds against insurance policies in the name of another person and retaining such funds for her personal benefit. (NASD Case #C3A020045)

Salvatore Clark (CRD #2580477, Registered Representative, Deer Park, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. (NASD Case #C3A020039)

Elite Investments, LLC (CRD #42794, Greeley, Colorado) and John Brady Guyette (CRD #1711681, Registered Principal, Greeley Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm received customer complaints that were required to be reported to NASD but were not reported. The findings also stated that the firm, acting through Guyette, failed to establish,

maintain, and enforce procedures reasonably designed to result in the tape recording of all conversations required to be taped and reviewed pursuant to NASD Rule 3010(b)(2). **(NASD Case #C3A020042)**

J. Craig Hili (CRD #2531966, Registered Representative, Miami Beach, Florida) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. **(NASD Case #C3A020040)**

Charles Francis Kirby (CRD #863916, Registered Principal, Littleton, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$7,500, jointly and severally. Kirby was also fined \$5,000 individually. Without admitting or denying the allegations, Kirby consented to the described sanctions and to the entry of findings that order tickets executed by his member firm contained an order execution time that was subsequent to the respective trade report, an order entry time that was subsequent to the related trade report, and illegible time stamps making it impossible to determine when the order was received and executed. The findings also stated that Kirby failed to enforce his member firm's supervisory procedures thereby causing order ticket violations. **(NASD Case #C3A020043)**

Adam Mosslih (CRD #2601978, Registered Representative, Syosset, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. **(NASD Case #C3A020041)**

Vincent Ribortone (CRD #2614091, Registered Representative, Freeport, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. The complaint also alleges that Ribortone made baseless price predictions concerning the future performance of a stock. **(NASD Case #C3A020044)**

Robby Don Schumacher (CRD #2714791, Registered Representative, East Islip, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in public customers' accounts. **(NASD Case #C3A020038)**

Jason Blaine Stevens (CRD #2802938, Registered Representative, Scottsdale, Arizona) was fined \$25,000 and suspended from association with any NASD member in any capacity for six months. The sanctions

were based on findings that Stevens made unsuitable recommendations to public customers. The findings also stated that Stevens made baseless price predictions regarding a speculative security to public customers without any reasonable basis for the predictions, and made material omissions of fact in his recommendations of securities to public customers. Stevens' suspension began September 16, 2002, and will conclude March 16, 2003. **(NASD Case #C3A010039)**

November Actions

Investment Management Corp. (CRD #37196, Salt Lake City, Utah) and Kevin Dee Kunz (CRD #1274540, Registered Representative, Fruit Heights, Utah) were fined \$28,757, jointly and severally, and Kunz was barred from association with any NASD member as a financial and operations principal, suspended from association with any NASD member in any other principal capacity for six months, and required to re-qualify as a principal. The sanctions were based on findings that the firm, acting through Kunz, conducted a securities business while failing to maintain its minimum net capital requirement and had inaccurate books and records. The findings also stated that the firm, acting through Kunz, filed inaccurate FOCUS reports; submitted an incomplete and materially inaccurate notice of a possible net capital deficiency; failed to file required information concerning an NASD arbitration award and a settlement; and allowed an inactive person to function in a capacity that required him to be actively registered. In addition, NASD determined that the firm, acting through Kunz, failed to have adequate written supervisory procedures with respect to the reporting of arbitration awards.

This action has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C3A010045)**

Aaron Simon Morris (CRD #2691021, Registered Representative, Hollywood, Florida) was fined \$45,313, suspended from association with any NASD member in any capacity for nine months, and required to pay \$22,668, plus interest, in restitution to public customers. The sanctions were based on findings that Morris made fraudulent omissions of material fact in connection with the offer and sale of a security.

Morris' suspension began October 7, 2002, and will conclude at the close of business July 7, 2003. **(NASD Case #C3A020006)**

Ruslan M. Sattarov (CRD #3027779, Registered Representative, Seattle, Washington) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Sattarov reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sattarov consented to the described sanctions and to the entry of findings that he caused the execution of transactions in his mother's securities account at his member firm on an "as of" basis. NASD found that such transactions were entered into the firm's electronic order entry system on a date after the "as of" trade date entered by Sattarov when they should have been entered at the price available on the entry date, not at the more favorable price obtained by entering and executing them on an "as of" basis.

Sattarov's suspension began October 21, 2002, and will conclude at the close of business November 19, 2002. (NASD Case #C3A020026)

December Actions

Kyle Patrick Frankel (CRD #3034895, Registered Representative, Phoenix, Arizona) was barred from association with any NASD member in any capacity. The sanction was based on findings that, without the prior knowledge or authorization of a public customer, Frankel filled out an application for life insurance for the customer, signed the customer's name to it, and submitted the application to his member firm's affiliated company. (NASD Case #C3A020034)

Schneider Securities, Inc. (CRD #16434, Denver, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to update or amend Forms U-4 and U-5 for registered representatives after becoming aware of information that triggered an obligation to update or amend the forms. The findings also stated that the firm's written supervisory procedures were not reasonably designed to ensure that Forms U-4 and U-5 were promptly updated or amended upon the receipt of information triggering an obligation to update or amend the forms. In addition,

NASD found that the firm's written supervisory procedures failed to identify the individual responsible for compliance in this area. (NASD Case #C3A020048)

District 3B Seattle

October Actions

Wanda Teresa Foster (CRD #2261834, Registered Supervisor, Tacoma, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Foster consented to the described sanction and to the entry of findings that she received customer checks sent to her member firm for deposit to their brokerage accounts, deposited the checks in the firm's bank account, and failed to credit the appropriate amounts to the customers' accounts. The findings also stated that Foster diverted a portion of the customers' funds into her own account at the firm, thereby converting the customers' funds to her own use and benefit, without the customers' knowledge, authorization, or consent. (NASD Case #C3B020016)

Howard Michael Johnson (CRD #1353976, Registered Representative, Philomath, Oregon) was barred from association with any NASD members in any capacity. The sanction was based on findings that, at Johnson's request, a public customer wrote checks on his account totaling approximately \$130,000 to third parties designated by Johnson, including relatives, other customers that had loaned money to Johnson, and other creditors. The findings also stated that Johnson forged the signature of a public customer on letters of authorization submitted to his member firm that purportedly authorized his firm to transfer funds totaling approximately \$150,000 from the customer's account to the account of another public customer. In addition, NASD found that Johnson failed to respond to NASD requests for information. (NASD Case #C3B020008)

November Actions

None.

December Actions

None.

District 4 Iowa, Kansas, Minnesota, Missouri, Nebraska,
North Dakota, and South Dakota

October Actions

Peter Faris Peck (CRD #1019018, Registered Representative, Heyworth, Illinois) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and required to offer, in restitution to a public customer, to repurchase the customer's membership interest in the amount of \$25,000. Without admitting or denying the allegations, Peck consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed and neglected to provide prompt written notice to his member firm. The findings stated that Peck participated in private securities transactions, and failed and neglected to provide prior written notice to, and obtain prior written authorization from, his member firm to engage in such transactions. NASD also found that Peck, by the use of instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud public customers and engaged in a course of business that operated as a fraud or deceit upon the customers by making untrue statements of material facts and/or omitting to state material facts necessary to make untrue statements made, in light of the circumstances in which they were made, not misleading, in connection with the purchase of a security that he sold to customers. In addition, the findings stated that Peck wrote, or caused to be issued, checks totaling \$68,100 from the bank account of a company, deposited the checks into his personal bank account, and converted the funds for his own use and benefit without the knowledge or consent of the company. Furthermore, NASD found that Peck, without prior notice to his member firm, accepted \$14,349 in funds from public customers to be invested but instead used such funds to purchase shares of stock for his own personal securities account maintained at his member firm, thereby converting the funds to his own use and benefit, and failed to respond to NASD requests for information. (NASD Case #C04020010)

Todd Michael Rome (CRD #2082803, Registered Principal, New York, New York) 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 allegations, Rome consented to the described sanction and to the entry of findings that, acting on behalf of his member

firm, he employed a statutorily disqualified person in various capacities and after being informed by NASD of the person's disqualification, entered into a Consulting Agreement with the person knowing that the person was a statutorily disqualified person. The findings stated that Rome, acting on behalf of his member firm, permitted an unregistered individual to be employed in capacities and perform functions that required registration with NASD. In addition, NASD found that Rome, in the exercise of reasonable supervision, failed to take appropriate steps to detect and prevent the conduct of registered representatives concerning customer claims and/or complaints alleging unauthorized transactions. (NASD Case #C04020029)

Douglas Lumir Stolba (CRD #1153617, Registered Representative, Plymouth, Minnesota) 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 allegations, Stolba consented to the described sanction and to the entry of findings that he received \$100,685.55 from public customers to be invested, but instead, without the knowledge or consent of the customers, deposited the funds into his personal bank account for his own personal use and benefit. (NASD Case #C04020031)

November Actions

Paul Raymond Brunner (CRD #3178981, Registered Representative, O'Fallon, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, including \$5,000, plus interest, in disgorgement of commissions to customers, and suspended from association with any NASD member in any capacity for 60 days. The fine and disgorgement must be paid before Brunner reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Brunner consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed written notice of the transactions and his role therein, and to receive permission from his member firm to engage in the transactions. The findings also stated that Brunner acted in capacities requiring registration as a general securities representative without being properly registered with NASD.

Brunner's suspension began November 4, 2002, and will conclude at the close of business January 2, 2003. **(NASD Case #C04020034)**

Kevin Jay Hayes (CRD #4435512, Associated Person, St. Louis, Missouri) was barred from association with any NASD member in any capacity. The sanction was based on findings that Hayes failed to respond to NASD requests for information. Hayes also failed to disclose a material fact on his Form U-4. **(NASD Case #C04020014)**

James Steven Neumeier (CRD #2097359, Registered Representative, High Ridge, 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 allegations, Neumeier consented to the described sanction and to the entry of findings that, without the knowledge or consent of a public customer, he caused a \$25,000 loan to be made from the customer's fixed insurance contract, instructed the customer to deposit the check into his personal checking account, and to write Neumeier a personal check payable to him for \$25,000. NASD found that Neumeier represented to the customer that he would repay his member firm with his funds and instead of repaying, he endorsed and deposited the check into an account under his control, thereby converting the funds to his own use and benefit. The findings also stated that Neumeier failed to respond completely to NASD requests for information. **(NASD Case #C04020033)**

Joseph Eugene Rahm (CRD #3212003, Registered Representative, Overland Park, Kansas) 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 allegations, Rahm consented to the described sanction and to the entry of findings that, while employed with a member firm, he converted \$490 to his own use and benefit from a Christmas tree lot at which he was volunteering. **(NASD Case #C04020035)**

December Actions

Christopher George Romani (CRD #2590681, Registered Representative, Savage, Minnesota) was barred from association with any NASD member in any capacity. The sanction was based on findings that Romani converted, for his own use and benefit, public customer funds totaling \$38,140.97 without the knowledge or consent of the customers. In addition, Romani improperly used

customer funds totaling \$18,159.43 in that he obtained loans from the insurance policies held by customers and applied the funds as a credit to other customer policy loans. Romani also failed to respond to NASD requests for information. **(NASD Case #C04020013)**

Joseph Philip Stelweck (CRD #2022057, Registered Representative, Cherry Hill, New Jersey) 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 allegations, Stelweck consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C04020037)**

District 5 Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, and Tennessee

October Actions

Gary Wilson Brown (CRD #1923682, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Brown reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he solicited a \$15,000 loan from a public customer and entered into a written loan agreement with the customer without having a reasonable basis for believing that he could repay the loan pursuant to the terms of the loan agreement. The findings also stated that Brown completed a form entitled "Annual Regulatory Field Instruction" wherein he represented to his member firm that he had not borrowed money from a customer, but such representation was false.

Brown's suspension began September 16, 2002, and will conclude at the close of business September 15, 2004. **(NASD Case #C05020041)**

Gary Lewis Davis (CRD #2547665, Registered Representative, Bella Vista, Arkansas) 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 five business days. Without admitting or denying the allegations, Davis consented to the described sanctions and to the

entry of findings that he maintained an account with a member firm over which he had discretionary authority without providing written notification to his member firm.

Davis' suspension began October 7, 2002, and concluded at the close of business October 11, 2002. (NASD Case #C05020043)

James Calvin Hulsey, III (CRD #1401945, Registered Representative, Tuscaloosa, Alabama) 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 allegations, Hulsey consented to the described sanction and to the entry of findings that he executed unauthorized stock transactions in the accounts of public customers without the customers' knowledge or consent. The findings also stated that Hulsey failed to respond to NASD requests for information. (NASD Case #C05020040)

Darryl Spencer Johnson (CRD #4308064, Registered Representative, Prairie View, Texas) was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 business days. The sanctions were based on findings that Johnson failed to disclose a material fact on his Form U-4.

Johnson's suspension began August 19, 2002, and concluded at the close of business September 30, 2002. (NASD Case #C05020009)

Amy Lynn Martin (CRD #3204695, Registered Principal, Memphis, Tennessee) was named as a respondent in an NASD complaint alleging that she transferred \$128,000 from the accounts of public customers to the checking account of another public customer for a purpose not directed by the customers and without their knowledge or consent. (NASD Case #C05020018)

Samuel Earl Miller, II (CRD #2479590, Registered Representative, Louisville, Kentucky) was named as a respondent in an NASD complaint alleging that he received \$1,000 in cash from a public customer to be invested, failed and neglected to remit these funds to his member firm, and failed to invest the funds as directed by the customer. The complaint also alleges that Miller created and sent to a public customer a false account statement reflecting a fictitious mutual fund purchase and failed to respond to NASD requests for information. (NASD Case #C05020042)

Jonathan Goodwin Page (CRD #1054190, Registered Representative, Memphis, Tennessee) 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 allegations, Page consented to the described sanction and to the entry of findings that he engaged in outside business activities without providing written notice to, and obtaining proper approval from, his member firm. (NASD Case #C05020045)

November Actions

Laura Leigh Cockrell (CRD #2738492, Registered Representative, Spring Hill, Tennessee) was named as a respondent in an NASD complaint alleging that she generated checks totaling \$77,100 drawn on her member firm's postage account, public customer accounts, and a firm employee account without their knowledge or consent. The complaint alleges that Cockrell made the checks payable to "W. Cockrell" or "Wesley Cockrell," signed the checks, obtained the required counter signatures, and then endorsed them "For Deposit Only" to an account under her control. The complaint also alleges that Cockrell failed to respond to NASD requests for information. (NASD Case #C05020046)

Glen S. Hancock (CRD #1461959, Registered Representative, Cedar Park, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, ordered to pay \$4,875, plus interest, in restitution to public customers, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Hancock consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm.

Hancock's suspension began November 4, 2002, and will conclude at the close of business December 16, 2002. (NASD Case #C05020048)

John Allen Jones, IV (CRD #2351720, Registered Representative, Montgomery, Alabama) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Jones consented to the described sanction and to the entry of findings that he recommended purchase and sale transactions in various securities to public

customers without having reasonable grounds for believing that they were suitable for the customers in view of the frequency and nature of the recommended transactions and the customers' financial situation, objectives, circumstances, and needs.

Jones' suspension began November 4, 2002, and will conclude at the close of business November 3, 2003. (NASD Case #C05020006)

Imran A. Maniar (CRD #2953812, Registered Representative, Houston, 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 15 days. The fine must be paid before Maniar reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Maniar consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the account of a public customer without having obtained prior written authorization from the customer and written acceptance of the account as discretionary by his member firm.

Maniar's suspension began November 4, 2002, and will conclude at the close of business November 18, 2002. (NASD Case #C05020050)

Amy Lynn Martin (CRD #3204695, Registered Representative, Memphis, Tennessee) was barred from association with any NASD member in any capacity. The sanction was based on findings that Martin transferred \$128,000 from the accounts of public customers to the checking account of another public customer. The transfer of funds was done for a purpose not directed by the customers and without their knowledge or consent. (NASD Case #C05020018)

SWS Securities, Inc. f/k/a Southwest Securities, Inc. (CRD #6220, Dallas, Texas) 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 as they relate to the review of approval of letters of authorization and the firm's credit restrictions and trading parameters. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to enforce written supervisory

procedures addressing the handling, approval, and processing of customer letters of authorization (LOA) received from its correspondent firms participating in day-trading activities. The findings also stated that the firm failed to reflect in its written supervisory procedures its procedures to address the setting of trading parameters for correspondent firms and the monitoring of correspondent transactions away from the firm. (NASD Case #C05020047)

Worldco, L.L.C. (CRD #24673, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported proprietary and customer short-sale transactions through ACT without a short-sale modifier, and long-sale transactions were incorrectly reported as short. The findings also stated that the firm executed proprietary short-sale transactions in NASDAQ National Market Securities (NMS) at the current inside bid, when the current inside bid was below the preceding inside bid in the security. (NASD Case #C05020049)

December Actions

Kenneth Ray Bell (CRD #2191634, Registered Representative, Memphis, Tennessee) was named as a respondent in an NASD complaint alleging that he effected unauthorized sales and cash withdrawals totaling \$124,900 from a variable annuity belonging to a public customer, and converted the funds to his own use and benefit without the knowledge or consent of the customer. (NASD Case #C05020053)

Thomas Avery Smith (CRD #1134969, Registered Principal, Owensboro, Kentucky) 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 10 days. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he executed an unauthorized purchase of shares of a mutual fund in the trust account of a public customer without the account trustee's knowledge or consent.

Smith's suspension began November 18, 2002, and concluded at the close of business November 27, 2002. (NASD Case #C05020051)

October Actions

Ronald Jay Clifton (CRD #1637760, Registered Principal, Odessa, 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 allegations, Clifton consented to the described sanction and to the entry of findings that he participated in a private securities transaction without providing prior notice, written or otherwise, to his member firm, and that he did not notify his member firm whether he had received, or might receive, selling compensation in connection with this transaction. The findings also stated that Clifton failed to respond to NASD requests for information and to appear for testimony. **(NASD Case #C06020009)**

Divine Capital Markets LLC, f/n/a Level Jump Trading, Inc. (CRD #118212, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct price of the transactions through ACT in last-sale reports of transactions in NASDAQ National Market® (NNM®), NASDAQ SmallCap, and OTC Equity Securities. In addition, NASD found that the firm failed to transmit through ACT last-sale reports of transactions in NNM and OTC Equity securities, and failed to display immediately 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 also stated that the firm reported customer short-sale transactions through ACT without a short-sale modifier, and executed short-sale transactions in NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. NASD also found that the firm, acting as principal, failed to disclose to customers that it was a market maker in the security, and failed to disclose the reported trade price and the difference between the reported trade price and the price to a customer. **(NASD Case #C06020010)**

Connie Fox, Jr. (CRD #1843462, Registered Representative, Navasota, Texas) was named as a respondent in an NASD complaint alleging that he received a \$3,000 check from a public customer for investment purchases and, instead, deposited the check into a bank account he controlled, withdrew the \$3,000 from his bank account, and used these funds together with other funds to purchase a Certificate of Deposit in his own name, thereby converting the customer's funds to his own use and benefit without the customer's authorization, knowledge, or consent. The complaint also alleges that Fox failed to respond to NASD requests for information. **(NASD Case #C06020011)**

November Actions

Frederic James Folino (CRD #1210850, Registered Representative, Camarillo, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, ordered to disgorge \$22,200 in commissions received to be paid as restitution to public customers, and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Folino consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm.

Folino's suspension began October 21, 2002, and will conclude at the close of business January 20, 2003. **(NASD Case #C06020014)**

William Walton Glauser (CRD #3250733, Registered Representative, Huntsville, Texas) 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 18 months. The fine must be paid before Glauser reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Glauser consented to the described sanctions and to the entry of findings that, in connection with a Series 65 examination, he committed an act of misconduct by removing scratch paper from the test center without authorization, and, as a result, his testing session was terminated. The findings also stated that Glauser willfully failed to disclose material facts on his Form U-4.

Glauser's suspension began October 21, 2002, and will conclude at the close of business April 20, 2004. (NASD Case #C06020012)

Richard Scott Madden (CRD #2112496, Registered Representative, Houston, 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 allegations, Madden consented to the described sanction and to the entry of findings that he changed the addresses for joint accounts belonging to public customers to that of a third party and effected transactions in the accounts without the customers' authorization, knowledge, or consent. In addition, NASD found that Madden sent the customers computer-generated reports that contained some information about the account but failed to reflect any of Madden's unauthorized trading activity. The findings also stated that Madden failed to respond to NASD requests for information. (NASD Case #C06020013)

December Actions

Arlie Ray Horn, Jr. (CRD #1471308, Registered Representative, Woodlands, Texas) and Lindsay Alan Byrum (CRD #1263551, Registered Representative, Houston, Texas) were each fined \$10,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam in all capacities. The sanctions were based on findings that Horn and Byrum engaged in private securities transactions and failed to provide prior written notice to, and receive permission from, their member firm to engage in such transactions.

Horn and Byrum's suspensions began November 4, 2002, and will conclude May 4, 2003. (NASD Case #C06010025)

Nima Taherian (CRD #3258193, Registered Principal, Ferndale, Michigan) was named as a respondent in an NASD complaint alleging that he engaged in a scheme to purchase and sell securities in the form of put and call options in his cash and margin accounts at his member firm, without having the ability or intent to pay for the purchases. The complaint alleges that Taherian made a practice of effecting transactions in his cash account whereby the cost of the securities purchased was met by the sale of the same securities, and caused his member firm to defer the deposit of cash and securities beyond the time when such

transactions would normally be settled or to meet the margin requirements by the liquidation of securities in his margin account. The complaint also alleges that Taherian intentionally or recklessly misrepresented or omitted material facts to his member firm that he could not or did not intend to pay for his securities transactions, thereby causing his firm to unwittingly assume the risk of his trading activities. (NASD Case #C06020019)

District 7 Florida, Georgia, North Carolina, South Carolina, Virginia, Puerto Rico, the Canal Zone, and the Virgin Islands

October Actions

Connie Jenkins Baker (CRD #4347863, Associated Person, Villa Rica, Georgia) submitted an Offer of Settlement in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Baker consented to the described sanctions and to the entry of findings that she willfully failed to disclose material facts on a Form U-4. The findings also stated that Baker failed to respond timely to NASD requests for documents and information.

Baker's suspension began September 16, 2002, and will conclude March 15, 2003. (NASD Case #C07020048)

Cathy Lynn Cerullo (CRD #1923993, Registered Representative, Tampa, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Cerullo forged the signature of a public customer in order to effect the unauthorized disbursement of the customer's variable annuity account and failed to respond to NASD requests for information. The findings also stated that Cerullo engaged in the unauthorized disbursement of the account of a public customer by submitting a request to her member firm to close a customer's annuity account and disburse the funds to the customer, without the consent of the customer. NASD found that the customer negotiated the check and sent a new check to Cerullo who used the funds to open a new mutual fund IRA account for the customer rather than restoring the original account, thereby receiving \$13,986.07 in commissions, but causing the customer to

lose the annuity benefits associated with his original annuity and to be subject to a new contingent deferred sales charge. (NASD Case #C07020010)

Robert Andrew DiCarlo, Jr. (CRD #2837475, Registered Representative, Boca Raton, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that DiCarlo failed to respond to NASD requests for information. The findings also stated that DiCarlo executed trades in the accounts of public customers without obtaining authorization from the customers. (NASD Case #C07020012)

Alfred Ward Dietrich (CRD #2137806, Registered Representative, Tampa, Florida) 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, Dietrich consented to the described sanction and to the entry of findings that he forged the signature of a public customer on documents. (NASD Case #C07020057)

Demetrius Donnell Ford (CRD #2540188, Registered Principal, Margate, Florida) submitted an Offer of Settlement in which she was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, suspended from association with any NASD member in all principal capacities for one year, and ordered to requalify by exam prior to being registered in any principal capacity. The fine must be paid immediately upon reassociation with a member firm following the 30-day suspension in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ford consented to the described sanctions and to the entry of findings that she supervised the sales force of her member firm in connection with private placement offerings, and distributed lead cards to the firm's representatives to enable them to sell the offerings in general solicitation although it was prohibited in the offerings. The findings stated that Ford failed to supervise the firm's representatives with a view to preventing violations of Section 5 of the Securities Act of 1933.

Ford's suspension in any capacity began September 16, 2002, and will conclude at the close of business October 15, 2002. Ford's suspension in any principal capacity began September 16, 2002, and will conclude at the close of business September 15, 2003. (NASD Case #C07020044)

Jianqiang Jeffrey Fu (CRD #3190303, Registered Representative, Silver Spring, Maryland) was barred from association with any NASD member in any capacity. The sanction was based on findings that Fu altered a monthly accounting statement of a public customer by changing the account number, tax ID number, name, and address to reflect his own account number, tax ID number, name, and address, and submitted the altered statement to a bank in connection with a personal loan application. The findings also stated that Fu failed to respond to NASD requests for information. (NASD Case #C07020008)

Raymond James Financial Services, Inc. (CRD #6694, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report statistical and summary information concerning customer complaints. (NASD Case #C07020068)

Luis Guillermo Sarmiento (CRD #828824, Registered Principal, Miami, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Sarmiento acted as an imposter and took the Series 7 and Series 24 qualification exams for his employer.

Sarmiento has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C07010091)

Trevor Douglas Seffren (CRD #2410677, Registered Representative, Aventura, Florida) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam as a general securities representative prior to acting in any capacity requiring that registration. The fine must be paid before Seffren reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Seffren consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information.

Seffren's suspension began August 6, 2001, and concluded at the close of business August 5, 2002. (NASD Case #C07010005)

Michelle Stephanie Sias (CRD #1214291, Registered Representative, Ft. Lauderdale, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sias consented to the described sanction and to the entry of findings that, in response to a public customer who had demanded the cancellation of an allegedly unauthorized trade, she falsified an internal memorandum, a computer printout, and a customer account statement and provided them to the customer to create the appearance that the trade had been canceled when in fact it had not been canceled. (NASD Case #C07020069)

Gregory James Toth (CRD #2620359, Registered Representative, White Plains, New York) was named as a respondent in an NASD complaint alleging that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and misrepresentations of fact to customers and potential customers in connection with the solicitation of orders to purchase a common stock. (NASD Case #C07020067)

November Actions

Richard Ralph Avis (CRD #2490874, Registered Representative, Tampa, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, including disgorgement of earned commissions of \$7,560, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Avis consented to the described sanctions and to the entry of findings that he participated in an outside business activity for compensation without providing prompt written notice to his member firm.

Avis' suspension began November 4, 2002, and will conclude May 3, 2003. (NASD Case #C07020074)

William Pang Chien (CRD #2251029, Registered Principal, Plantation, Florida) was named as a respondent in an NASD complaint alleging that he caused \$350,500.87 to be wire transferred from the accounts of public customers at his member firm to various bank accounts, including accounts under his control, without authorization from the customers, thereby converting the funds. The complaint also alleges that Chien caused \$209,900 to be wire

transferred from accounts of public customers at his member firm to various bank accounts, including accounts under his control, without authorization from the customers, and ultimately returned the funds to the customers, thereby misusing customer funds. In addition, the complaint alleges that Chien failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C07020077)

Gary Andrew Finly (CRD #2776637, Registered Representative, North Port, 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 allegations, Finly consented to the described sanction and to the entry of findings that, without authorization or consent, he forged the signatures of public customers on account transfer paperwork in order to cause their accounts to be transferred from his former member firm to his new member firm. (NASD Case #C07020072)

David William Haburjak (CRD #2233093, Registered Representative, W. Gastonia, North Carolina) was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 business days. The sanctions are based on findings that Haburjak exercised discretionary power in the accounts of public customers without written discretionary authority from the customers or his member firm's acceptance of the accounts as discretionary.

Haburjak's suspension began October 7, 2002, and concluded at the close of business November 1, 2002. (NASD Case #C07010100)

Howard Scott Ismark (CRD #2928579, Registered Representative, North Miami Beach, Florida) was named as a respondent in an NASD complaint alleging that he effected, or caused to be effected, transactions in the accounts of public customers without their prior authorization. The complaint also alleges that Ismark participated in a private securities transaction without providing prior written notice to his member firm. In addition, the complaint alleges that Ismark failed to respond to NASD requests for information and documents. (NASD Case # C07020070)

Barry Alan Kaufman (CRD #2774898, Registered Representative, Boca Raton, Georgia) was named as a respondent in an NASD complaint alleging that he effected unauthorized trades in the account of a public

customer. The complaint also alleges that Kaufman failed to respond to NASD requests for documents and to provide a written statement. **(NASD Case #C07020078)**

Tina Sue Lounsbury (CRD #2817864, Registered Principal, Jacksonville, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lounsbury consented to the described sanction and to the entry of findings that she obtained \$105,430.67 from the accounts of public customers, without their authorization or consent, and used the funds for her own purposes. The findings also stated that Lounsbury failed to respond to NASD requests for information. **(NASD Case #C07020076)**

Dennis Patrick Sweenor (CRD #2621311, Registered Representative, Queensbury, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for six months, and ordered to pay \$2,822.77, plus interest, in restitution to public customers. The fine and restitution must be paid before Sweenor reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sweenor consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in the accounts of public customers without their prior authorization. The findings also stated that Sweenor negligently misrepresented to public customers that they would be charged commissions on profitable trades only or that the commissions would be three percent of the profits from the customers' accounts.

Sweenor's suspension began October 21, 2002, and will conclude April 20, 2003. **(NASD Case #C07020075)**

December Actions

Mark Dennis Capaz (CRD #2905520, Registered Representative, Tampa, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Capaz engaged in outside business activity, for compensation, and failed to provide prior written notice to his member firm. The findings also stated that Capaz failed to respond to NASD requests for information. **(NASD Case #C07020030)**

Calvin Wayne Culbertson (CRD #2598645, Registered Representative, Ocala, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Culbertson failed to respond to NASD requests for information. The findings also stated that Culbertson engaged in a private securities transaction, for compensation, and failed to provide prior written notice to, or receive prior written approval from, his member firm. **(NASD Case #C07020051)**

Marcus M. Honio (CRD #4142035, Registered Representative, Boca Raton, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Honio willfully failed to disclose material facts on his Form U-4. **(NASD Case #C07020045)**

Virginia Jenkins (CRD #2815794, Registered Representative, Waynesboro, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jenkins consented to the described sanction and to the entry of findings that she converted \$221,000 from bank customers. **(NASD Case #C07020085)**

Heriberto Marrero (CRD #1696583, Registered Representative, Ft. Lauderdale, Florida) was named as a respondent in an NASD complaint alleging that he converted funds totaling \$44,093.35 to his own use from the bank accounts of public customers without their authorization by preparing or altering debit and credit memos containing forged customer signatures. The complaint also alleges that Marrero failed to respond to NASD requests for information. **(NASD Case #C07020086)**

Michael John Price (CRD #1723203, Registered Representative, Atlanta, Georgia) was named as a respondent in an NASD complaint alleging that he effected unauthorized trades in the account of a public customer. **(NASD Case #C07020081)**

District 8 Illinois, Indiana, Michigan, part of upstate New York (the counties of Monroe, Livingston, and Steuben, and the remainder of the state west of such counties) Ohio, and Wisconsin

District 8A Chicago

October Actions

Chad Michael Arnholt (CRD #2632682, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for six months. In light of the financial status of Arnholt, no monetary sanctions have been imposed. Without admitting or denying the allegations, Arnholt consented to the described sanction and to the entry of findings that he engaged in outside business activities and failed to provide prompt written notice to his member firm.

Arnholt's suspension began September 16, 2002, and will conclude March 15, 2003. **(NASD Case #C8A020059)**

David Richard Carey (CRD #2077949, Registered Principal, Oglesby, Illinois) 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, Carey consented to the described sanction and to the entry of findings that he received \$5,700 from public customers to purchase shares of a fund for custodial securities accounts. NASD found that Carey failed to follow the customers' instructions and used the funds for some purpose other than the benefit of the custodial customers. The findings also stated that Carey failed to respond fully to NASD requests for documents and information. **(NASD Case #C8A020024)**

Jeffrey Joseph Hiser (CRD #2750883, Registered Principal, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from acting as a financial and operations principal with any NASD member for nine months, and required to requalify by examination as a financial and operations principal. In light of the financial status of Hiser, the fine imposed is \$10,000. Without admitting or denying the allegations, Hiser consented to the described sanctions and to the entry of findings that, acting on behalf of a member firm, he used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities when they failed to maintain the minimum required net capital. The findings stated that Hiser, acting on behalf of a member firm, prepared inaccurate trial balances and net capital computations. NASD also found that Hiser, acting on behalf of a member firm, filed NASD FOCUS Part IIA reports, which were

inaccurate in that, among other things, the reports overstated the firm's net capital.

Hiser's suspension began October 7, 2002, and will conclude July 6, 2003. **(NASD Case #C8A020058)**

Sarah Jean Howard (CRD #2468812, Registered Representative, Detroit, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Howard consented to the described sanction and to the entry of findings that she willfully failed to disclose material facts on a Form U-4. **(NASD Case #C8A020055)**

Liss Financial Services (CRD #21950, Milwaukee, Wisconsin) and Jerome Edward Liss (CRD #310709, Registered Representative, Belgium, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$20,000 jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Liss, failed to timely file an amended Uniform Application for Securities Industry Registration or Transfer (Form U-4) on 30 separate occasions for nine registered representatives to report customer complaints, arbitration settlements, and arbitration awards. The findings stated that the firm, acting through Liss, failed to comply with the firm's reporting requirements, in that it failed to promptly report to NASD that the firm and persons associated with the firm were respondents in arbitrations which had been disposed of by awards and settlements in amounts exceeding \$25,000 against the firm, exceeding \$15,000 against the associated person, and were reported late. NASD found that the firm, acting through Liss, failed to timely report to NASD a customer complaint. In addition, the findings stated that the firm, acting through Liss, failed to timely report terminations and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules of NASD in that the procedures failed to state the supervisory steps to ensure that amendments to Forms U-4 and Uniform Termination Notices for Security Industry Registration (Forms U-5) were timely and accurately filed, stated how often supervisory procedures should be performed, and stated how such supervisory procedures should be evidenced by the firm. **(NASD Case #C8A020062)**

Scott Donald Sprandel (CRD #2291857, Registered Representative, Flossmoor, Illinois) 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 five business days. Without admitting or denying the allegations, Sprandel consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in the securities accounts of public customers and exercised discretionary power in the accounts without prior written authorization from the customers or acceptance in writing by his member firm of the account as discretionary.

Sprandel's suspension began September 16, 2002, and concluded at the close of business September 20, 2002. **(NASD Case #C8A020051)**

Lisa June Strong (CRD #1837281, Registered Principal, Peoria, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and barred from association with any NASD member in any principal or managerial capacity. In light of the financial status of Strong, a \$5,000 fine was imposed. The fine must be paid upon reassociation with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Strong consented to the described sanctions and to the entry of findings that a member firm, acting through Strong, received notice of customer complaints or arbitration proceedings against registered representatives, sanctions imposed by NASD against representatives, the suspension of a representative, and the settlement of arbitration proceedings against representatives, and failed to cause amendments to be filed to Forms U-5 and U-4 on behalf of the representatives after learning of the reportable events and facts and circumstances giving rise to the requirement to amend. The findings also stated that a member firm, acting through Strong, received notice of disciplinary actions taken by NASD against registered representatives and settlements of arbitration claims against representatives and the firm and failed to report such incidents to NASD after becoming aware of the incidents. **(NASD Case #C8A020056)**

Christopher Allen Wagner (CRD #3081539, Registered Representative, Belleville, Illinois) 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 15 business days. The fine must be paid before Wagner reassociates with any

NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wagner consented to the described sanctions and to the entry of findings that he failed to disclose information on his Form U-4.

Wagner's suspension began October 7, 2002, and will conclude at the close of business October 25, 2002. **(NASD Case #C8A020033)**

Craig Frank Wisbiski (CRD #2711742, Registered Supervisor, Williamston, Michigan) 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, Wisbiski consented to the described sanctions and to the entry of findings that he caused \$169,970 to be withdrawn from the securities account of a public customer, deposited the funds into his own securities account without the customer's knowledge or consent, and used the funds for his own personal benefit or for some purpose other than the benefit of the customer. The findings also stated that Wisbiski induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances by inducing public customers to invest funds which he represented would be placed with a "private investment group" and earn 15 percent tax-free annual interest, when, in fact, said investment was nonexistent and Wisbiski used the customer funds for his own purposes. **(NASD Case #C8A020036)**

November Actions

ABN AMRO Incorporated (CRD #15776, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to take reasonable steps to ensure that the executing brokers clearing trades through the firm completely and accurately reported transactions in municipal securities effected with other broker/dealers or municipal securities dealers. NASD also found that the firm failed to provide accurate and timely information regarding municipal securities trades to the National Securities Clearing Corporation (NSCC), which caused the firm's T-Input Percentage to be consistently below the industry average. **(NASD Case #C8A020065)**

Donald Jeffrey Barker (CRD #4476980, Associated Person, Aurora, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Barker reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Barker consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Uniform Application for Securities Industry Registration or Transfer (Form U-4).

Barker's suspension began October 21, 2002, and will conclude July 20, 2003. **(NASD Case #C8A020069)**

Bruce Douglas Berry (CRD #2846046, Registered Representative, Livonia, Michigan) 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. Without admitting or denying the allegations, Berry consented to the described sanctions and to the entry of findings that he removed an IRA rollover check that a public customer submitted to his office, brought the check to the customer's home, and suggested that the customer transfer the rollover to a company affiliated with his soon-to-be new employer. The findings also stated that after the customer completed a new account form, Berry crossed out and substituted the payee on the rollover check, placed the customer's initials next to the payee line, and submitted the check to the new company, but the check was rejected.

Berry's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. **(NASD Case #C8A020063)**

Douglas Scott Bingaman (CRD #1611958, Registered Representative, South Bend, Indiana) 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 allegations, Bingaman consented to the described sanction and to the entry of findings that he received \$37,553 from public customers for investments, deposited the funds into his own account, and then converted the funds to his own use without the knowledge or consent of the customers. **(NASD Case #C8A020066)**

Robert Loal Boeke, Sr. (CRD #2515281, Registered Representative, Rockford, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$43,000, including the disgorgement of financial benefits received, and barred from association with any NASD member in any capacity. The fine must be paid before Boeke reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Boeke consented to the described sanctions and to the entry of findings that he converted a public customer's funds totaling \$100,000 to his own use and deposited the funds into his personal brokerage account held at another member firm without the knowledge or consent of the customer. The findings also stated that Boeke failed to disclose to his member firm that he maintained a brokerage account at another member firm. **(NASD Case #C8A020067)**

Harvey Lee Bunker, Jr. (CRD #3015864, Registered Representative, Nashville, Illinois) 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 one year. The fine must be paid before Bunker reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bunker consented to the described sanctions and to the entry of findings that he misappropriated \$11,974 in insurance premium payments that he received from public customers of his member firm by borrowing such funds to meet his business expenses, without the knowledge or the express or implied consent of the customers or his member firm.

Bunker's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. **(NASD Case #C8A020070)**

Conseco Equity Sales, Inc. (CRD #4125, Carmel, Indiana) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed representatives to act in a capacity requiring registration without being so registered due to a failure to complete the Regulatory Element of Continuing Education. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures to ensure compliance with the Regulatory Element of Continuing Education. **(NASD Case #C8A020073)**

Jeffrey Paul Couper (CRD #1111013, Registered Representative, Iron Mountain, Michigan) 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 six months. The fine must be paid before Couper reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Couper consented to the described sanctions and to the entry of findings that he mishandled customer funds when he accepted and held monthly cash payments intended for life insurance premiums from a public customer. NASD found that the funds were not applied to the insurance policies, and, as a result, the policies lapsed. The findings also stated that Couper mishandled public customer funds when he accepted \$135 from the customer for payment of a variable life product, but failed to promptly apply the funds to the product.

Couper's suspension began November 4, 2002, and will conclude May 3, 2003. **(NASD Case #C8A020045)**

Wayne Paul Messner (CRD #2170398, Registered Representative, St. Charles, 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 allegations, Messner consented to the described sanction and to the entry of findings that he received a \$5,000 check from a public customer for the purpose of investing in mutual funds. NASD found that Messner then deposited the check into his business checking account and converted the funds to his own use or for some purpose other than the benefit of the customer without the knowledge or consent of the customer. The findings also stated that Messner failed to respond completely to NASD requests for information. **(NASD Case #C8A020072)**

Spencer Trask Ventures, Inc. (CRD #28373, New York, New York) was censured and fined \$41,636, of which \$1,000 was jointly and severally. The sanctions were based on findings that the firm, in violation of the Free-Riding Withholding Interpretation, sold "hot issues" to prohibited accounts and failed to exercise reasonable supervision and to establish and maintain supervisory procedures reasonably designed to achieve compliance with NASD Rule IM-2110-1. **(NASD Case #C8A020010)**

James Arthur Will (CRD #2701284, Registered Representative, Indianapolis, Indiana) was barred from association with any NASD member in any capacity. The sanction was based on findings that Will failed to respond to NASD requests for information. The findings also stated that Will engaged in unauthorized transactions. **(NASD Case #C8A020026)**

December Actions

Jack Charles Gerwin, Jr. (CRD #829845, Registered Representative, Bloomfield Hills, Michigan) submitted an Offer of Settlement 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 Gerwin reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gerwin consented to the described sanctions and to the entry of findings that he willfully failed to disclose, amend, or cause to have amended his Form U-4 to disclose material facts.

Gerwin's suspension began November 18, 2002, and will conclude at the close of business February 17, 2003. **(NASD Case #C8A020038)**

Philip Dee Hart (CRD #2246252, Registered Representative, Ottawa, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Hart reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hart consented to the described sanctions and to the entry of findings that he participated, for compensation, in private securities transactions, and failed and neglected to give written notice to, and receive written approval from, his member firm prior to engaging in such activities. The findings also stated that Hart failed and neglected to provide prompt written notice to his member firm of his outside business activities. NASD also found that Hart participated in the public offering of securities prior to filing with NASD's Corporate Financing Department the documents and information required. In addition, the findings stated that Hart failed to file the offering with NASD to ensure that the terms and arrangements of the offering were in compliance with

the Conflicts of Interest Rule when the proceeds of the offering were to be used to form a broker/dealer and become a member, and failed to conduct the offering as if the issuer had been a member prior to the commencement of the offering.

Hart's suspension began November 18, 2002, and will conclude May 17, 2003. **(NASD Case #C8A020074)**

Jeffrey Lavert Montgomery (CRD #2701770, Registered Representative, Milwaukee, Wisconsin) was barred from association with any NASD member in any capacity. The sanction was based on findings that Montgomery misused customer funds and failed to respond to NASD requests for information. **(NASD Case #C8A020023)**

Nikolas John Tries (CRD #2984407, Registered Representative, Milwaukee, Wisconsin) was barred from association with any NASD member in any capacity. The sanction was based on findings that Tries misappropriated his member firm's funds and failed to respond to NASD requests for information. **(NASD Case #C8A020037)**

District 8B Cleveland

October Actions

Ted Frederick Cook (CRD #852995, Registered Representative, Buffalo, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Cook received a \$7,000 check from an insurance customer for the purchase of a long-term care insurance policy and converted the funds for his own purposes. The findings also stated that Cook failed to respond to NASD requests for information. **(NASD Case #C8B020010)**

Edward Allan Fennell (CRD #3126627, Registered Representative, Dublin, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Fennell received \$4,901.53 from public customers for the purchase of a variable annuity and a mutual fund, failed to use the funds as directed, and, instead, used the funds for his own benefit. The findings also stated that Fennell failed to respond to NASD requests for information. **(NASD Case #C8B020009)**

William Augusta Hardy (CRD #1283999, Registered Representative, Delaware, Ohio) 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 allegations, Hardy consented to the described sanction and to the entry of findings that he engaged in private securities transactions away from his member firm, and failed to provide his firm with detailed written notice of the transactions and his role therein and to receive permission from the firm to engage in the transactions. **(NASD Case #C8B020017)**

Paulette Marlene McDermott (CRD #2410863, Registered Representative, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McDermott consented to the described sanction and to the entry of findings that she signed the names of members of the public to life insurance policy change application forms without their knowledge or consent. **(NASD Case #C8B020016)**

November Actions

Lucretia Pamela Davis (CRD #3276421, Registered Representative, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Davis consented to the described sanction and to the entry of findings that she forged the signatures of members of the public on savings account withdrawal slips for accounts maintained at a bank affiliate of her member firm, presented the withdrawal slips, obtained proceeds totaling \$41,700, and used the proceeds for her own benefit, without their knowledge, consent, or authorization. **(NASD Case #C8B020019)**

Stephen Michael Telesca (CRD #1021136, Registered Representative, Fairport, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$14,490 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Telesca consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, away from his member firm and failed to provide his firm with detailed written notice of the

transactions, his role therein, and to receive permission from the firm to engage in the transactions. The findings also stated that Telesca engaged in outside business activities for compensation, and failed to provide his member firm with prompt written notice of these activities.

Telesca's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. (NASD Case #C8B020018)

December Actions

Herbert Mario Miller (CRD #1394124, Registered Representative, Grand Island, New York) was named as a respondent in an NASD complaint alleging that he received checks totaling \$70,892.90 from public customers, failed to apply the funds as intended or in any other manner for the benefit of the customers, and, instead, used the funds for his own benefit. The complaint also alleges that Miller failed to respond to NASD requests for information. (NASD Case #C8B020022)

Stephen Gerald Roehrig (CRD #2826376, Registered Representative, Rochester, New York) and Mark James Palazzo (CRD #1221009, Registered Principal, Pittsford, New York) submitted a Letter of Acceptance, Waiver, and Consent in which Roehrig was suspended from association with any NASD member in any capacity for 10 business days and Palazzo was fined \$10,000 and suspended from association in any principal or supervisory capacity for 10 business days. In light of the financial status of Roehrig, a fine of \$1,000 has been imposed. In lieu of payment of the fine to NASD, Roehrig and Palazzo were ordered to make partial restitution to a public customer by paying the full amount of their fines to the customer or the customer's estate. Roehrig and Palazzo must provide proof of full payment of the restitution to NASD within 30 days or they will be suspended from association with any NASD member in any capacity until proof of payment has been provided. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Roehrig recommended and effected transactions in the account of a public customer without having reasonable grounds for believing the recommendations and resultant transactions were suitable for the customer on the basis of his financial situation and needs. The findings also stated that Palazzo failed to supervise Roehrig adequately in that he knew, or reasonably

should have known, that such transactions were not suitable for the customer.

Roehrig's suspension began December 2, 2002, and concluded at the close of business December 13, 2002. Palazzo's suspension began December 2, 2002, and concluded at the close of business December 13, 2002. (NASD Case #C8B020024)

Arnold Robert Sinko (CRD #4408383, Registered Representative, Strongsville, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. The sanction was based on findings that Sinko willfully failed to disclose a material fact on his Form U-4. (NASD Case #C8B020023)

David Wayne Steele (CRD #1628075, Registered Representative, Piqua, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$42,109.49, including disgorgement of \$37,109.49 in commissions received, and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Steele reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Steele consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide his member firm with detailed written notice of the transactions and his role therein, and to receive permission from his firm to engage in the transactions.

Steele's suspension began November 4, 2002, and will conclude at the close of business May 15, 2003. (NASD Case #C8B020021)

Gary Earll Stevens (CRD #862409, Registered Representative, Rochester, New York) 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 allegations, Stevens consented to the described sanction and to the entry of findings that he entered into a General Release with a public customer to resolve issues surrounding funds Stevens had received from the customer, and entered into a Confidentiality Agreement with the customer to prevent the customer from disclosing information about a settlement to any person or entity, including his member firms and regulatory authorities. The findings also stated that

Stevens failed to disclose his receipt of funds from the customer to his member firms, and failed to tell the firms about settling a complaint with the customer away from the firms. **(NASD Case #C8B020025)**

George Charles Wilkinson, Sr. (CRD #2411651, Registered Representative, Boardman, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for three months. In light of the financial status of Wilkinson, no monetary sanctions have been imposed. Without admitting or denying the allegations, Wilkinson consented to the described sanction and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his member firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Wilkinson's suspension began November 4, 2002, and will conclude at the close of business February 3, 2003. **(NASD Case #C8B020020)**

District 9 Delaware, Pennsylvania, West Virginia, District of Columbia, Maryland, and New Jersey

District 9A Philadelphia

October Actions

Yenden Ann Chan (CRD #2237797, Registered Representative, Potomac, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chan consented to the described sanction and to the entry of findings that she failed to respond to an NASD request to testify. **(NASD Case #C9A020037)**

Joseph Alphonso Engerman, Jr. (CRD #2707877, Registered Representative, Upper Marlboro, Maryland) was named as a respondent in an NASD complaint alleging that he received a \$25,000 check from a public customer to establish a securities trading account and to purchase a money market fund and/or municipal securities fund, deposited the check into a business checking account registered in his name, caused \$10,000 to be deposited in a securities account in the name of the customer, and converted the balance to his own use and purposes. The complaint also alleges that Engerman provided the customer with a statement that

falsely listed a municipal securities fund and a money market fund as positions in the customer's securities account when, in fact, no such securities had been purchased. In addition, the complaint alleges that Engerman received \$64,850 from a public customer for investment purposes in conformity with a recommended asset plan developed for the customer by Engerman to invest her monies in a variety of types of securities, but he retained the funds and converted them to his own use and purposes by failing to apply them to the intended investment purposes. Furthermore, the complaint alleges that Engerman failed to respond to NASD requests for information and documents. **(NASD Case #C9A020039)**

Wayne William Hoffman (CRD #1097848, Registered Principal, Fogelsville, Pennsylvania) 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 allegations, Hoffman consented to the described sanction and to the entry of findings that he participated in private securities transactions outside the scope of his employment with his member firm and failed to provide prior written notice of his proposed participation in the transactions to his member firm. **(NASD Case #C9A020042)**

Todd Andrew Marley (CRD #2392933, Registered Representative, Lawrence, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Marley consented to the described sanction and to the entry of findings that he engaged in securities transactions outside the normal course or scope of his association with his member firm and failed to provide prior written notice to his member firm.

Marley's suspension began October 7, 2002, and will conclude at the close of business January 6, 2003. **(NASD Case #C9A020038)**

Alexander Osterneck (CRD #1663321, Registered Representative, Palm Beach, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Osterneck failed to respond timely to NASD requests for information and to appear for an on-the-record interview. **(NASD Case #C9A010006)**

Stanley Lynn Scanlon (CRD #1171669, Registered Representative, Edinboro, Pennsylvania) 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 allegations, Scanlon consented to the described sanction and to the entry of findings that he engaged in securities transactions outside the scope of his employment with his member firm and failed to provide his member firm with prior written notice of his participation in the transactions. The findings also stated that Scanlon failed to respond, and to respond timely and completely, to NASD requests for information and documents. **(NASD Case #C9A020036)**

Patricia Ann Schaffer (CRD #3171723, Registered Representative, Middletown, Delaware) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schaffer consented to the described sanction and to the entry of findings that, while working as a teller with an affiliate bank of her member firm, she issued a \$1,500 cashier's check payable to herself without providing funds to pay for the check. The findings also stated that to later fund the check, Schaffer withdrew \$1,500 from a public customer's bank account without the customer's authorization or consent. **(NASD Case #C9A020040)**

November Actions

James Anthony Ross (CRD #718008, Registered Representative, Pitcairn, Pennsylvania) submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for four months, and required to disgorge \$11,800, plus interest, in partial restitution to public customers. The fine and restitution must be paid before Ross reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ross consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Ross' suspension began October 21, 2002, and will conclude at the close of business February 20, 2003. **(NASD Case #C9A020032)**

December Actions

Charles Philip Damico (CRD #60413, Registered Principal, Bryn Mawr, Pennsylvania) 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 allegations, Damico consented to the described sanction and to the entry of findings that he engaged in private securities transactions outside the normal course or scope of his association with a member firm, and failed to provide the firm with prior written notice of the transactions. The findings also stated that Damico failed to respond to NASD requests for information and documents. **(NASD Case #C9A020049)**

Marc Anthony Flora (CRD #2524814, Registered Representative, Ocean City, New Jersey) 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 allegations, Flora consented to the described sanction and to the entry of findings that he obtained a \$36,011.74 check issued to a beneficiary from an insurance company affiliated with his member firm, negotiated it, and deposited it into his personal bank account without the knowledge or consent of the actual payee. The findings also stated that Flora caused the address of record for a variable annuity contract owned by public customers to be changed to his own residential address without the knowledge or authorization of the customers; submitted a falsified document bearing the purported signatures of the customers that requested a \$70,000 partial withdrawal from their annuity contract; and negotiated a \$70,000 check issued to one of the customers and deposited it into his personal bank account without the customer's knowledge or consent. In addition, NASD found that Flora submitted a falsified document bearing the purported signatures of public customers that requested a \$25,000 partial withdrawal from their annuity contract without their knowledge or authorization, and negotiated a \$25,000 check issued to one of the customers and deposited it in his personal bank account without the customer's knowledge or consent. **(NASD Case #C9A020044)**

David Lawrence Gillotti (CRD #1389275, Registered Representative, Baltimore, Maryland) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay disgorgement of \$1,000, plus interest, in commissions in partial restitution to a public customer. Gillotti must pay the restitution before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gillotti consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, and failed to provide written notice to, and obtain approval from, his member firm. The findings also stated that Gillotti failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C9A020029)**

David Bryan Kalt (CRD #2031370, Registered Representative, South Charleston, West Virginia) 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 allegations, Kalt consented to the described sanction and to the entry of findings that he effected transactions in the Individual Retirement Account (IRA) of a public customer without the customer's prior knowledge or authorization. The findings also stated that Kalt engaged in excessive and unsuitable trading in the customer's account in that the transactions he effected were excessive in volume and frequency based on the customer's age, her employment status, her financial circumstances, the character and nature of the account, and other considerations. **(NASD Case #C9A020047)**

Kevin Jay Palan (CRD #1734423, Registered Representative, Belle Mead, New Jersey) 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 allegations, Palan consented to the described sanction and to the entry of findings that he effected transactions in the accounts of a public customer without the customer's prior authorization. The findings also stated that Palan engaged in unsuitable trading in the accounts of a public customer in that the transactions he effected were excessive in volume and frequency based on the customer's personal circumstances, his investment objectives, and the character and nature of the accounts. **(NASD Case #C9A020050)**

District 9B New Jersey

October Actions

Harry Michael Anthony (CRD #2356706, Registered Representative, Belle Vernon, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, required to pay \$1,600 in disgorgement of commissions, and required to pay \$1,375 in restitution to public customers. In addition, Anthony will attend sales-practice training with an emphasis on mutual fund-related issues. The fine must be paid before Anthony reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Anthony consented to the described sanctions and to the entry of findings that he made unsuitable mutual fund recommendations to his member firm's customers and engaged in short-term trading in a customer's account. The findings also stated that Anthony engaged in unsuitable switching by recommending that a customer switch from Class A shares to Class B shares in different fund families. NASD determined that these recommendations were unsuitable because there were funds within a family of funds that were sold with investment objectives and holdings comparable to the funds that were purchased. The findings stated that the customer could have taken advantage of "free exchanges" within his existing funds at no additional cost. Instead, the customer incurred higher fees and a contingent deferred sales charge period while Anthony received a full commission on each new purchase. In addition, NASD determined that Anthony effected transactions in the account of a public customer without obtaining prior written authorization from the customer and written acceptance of the account as discretionary by his member firm.

Anthony's suspension began October 7, 2002, and will conclude at the close of business October 18, 2002. **(NASD Case #C9B020057)**

Jordan Robert Belkin (CRD #2955234, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for nine months and required to requalify by exam as a general securities representative. In light of the bankruptcy filing, no

monetary sanction has been imposed. Without admitting or denying the allegations, Belkin consented to the described sanctions and to the entry of findings that he engaged in a pattern of unsuitable mutual fund recommendations to public customers. NASD found that Belkin failed to ensure that his customers obtained the benefit of breakpoints, mutual fund promotions, and rights of accumulations to lower transaction costs; engaged in unsuitable switching by failing to utilize free exchanges; and engaged in unsuitable short-term trading in customer accounts. The findings also stated that Belkin failed to disclose to certain customers cost-savings available through letters of intent, breakpoints, and rights of accumulation. NASD determined that as a result of Belkin's recommendations, the customers incurred unnecessary charges totaling \$35,000, while Belkin generated an additional \$20,000 in commissions for himself.

Belkin's suspension began September 16, 2002, and will conclude June 15, 2003. (NASD Case #C9B020054)

Lawrence Paul Chielli (CRD #2835012, Registered Representative, Middletown, New Jersey) 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 allegations, Chielli consented to the described sanction and to the entry of findings that he received a \$2,000 check from a public customer with instructions to purchase various shares of a common stock, and subsequently, the customer instructed Chielli to sell such shares. The findings stated that Chielli misrepresented to the customer that he had effected such transactions, although he was aware that no such transactions had ever occurred. In furtherance of the foregoing misrepresentations, Chielli provided the customer with fictitious account statements that reflected transactions that had never occurred. Subsequently, when the customer requested that some of the profits be forwarded to him, Chielli sold shares of a mutual fund that the customer owned without the customer's prior knowledge, authorization, or consent. In addition, NASD found that Chielli failed to respond to NASD requests for information. (NASD Case #C9B020059)

Conseco Securities, Inc. (CRD #29367, Carmel, Indiana) and Carlos Guevera (CRD #1697335, Registered Principal, Hillsborough, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000 jointly and severally. The

firm was also fined \$65,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Guevera, failed to establish, maintain, and enforce adequate written supervisory procedures regarding variable annuity transactions. The findings also stated that the firm failed to ensure that its offices of supervisory jurisdiction were subject to annual inspections, and a review of variable annuity sales revealed where there was no written evidence that a principal had reviewed the transaction. Furthermore, NASD found that the firm failed to maintain customer files for all of its variable annuity business and was unable to provide documentation for variable annuity sales. In addition, NASD found that the firm failed to obtain customer information concerning financial status, tax status, investment objectives, and other similar information necessary for making a suitability determination and conducting related supervisory reviews. (NASD Case #C9B020058)

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) and Herbert Kurinsky (CRD #276776, Registered Representative, Long Branch, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$25,000 jointly and severally. The firm was also fined \$20,000, required to pay \$17,293 in restitution to public customers, and required to update its written supervisory procedures to address deficiencies regarding its mutual fund procedures. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Kurinsky, failed to establish, maintain, and enforce an adequate supervisory system and written supervisory procedures regarding its mutual fund business. The findings stated that the firm failed to reasonably supervise a former registered representative who was engaged in a pattern of unsuitable mutual fund recommendations to public customers. NASD found that the firm incorrectly reported the trader in National Market Securities (NMS), NASDAQ SmallCapSM and OTC securities to the Automated Confirmation TransactionSM Service (ACTSM) and reported the incorrect modifier, incorrect price, incorrect volume, and incorrect capacity. Furthermore, NASD found that the firm failed to report trades to the Fixed Income Pricing SystemSM (FIPSSM) as required, and executed a customer order without using reasonable diligence to determine the best inter-dealer market for the relevant security so that the resultant price to the

customer was as favorable as possible under prevailing market conditions. In addition, the findings stated that the firm failed to comply with Securities and Exchange Commission (SEC) Rule 17a-3, in that order tickets processed by the firm were not properly time-stamped. (NASD Case #C9B020053)

Dale Edward Groce (CRD #2869325, Registered Representative, Glenshaw, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500, suspended from association with any NASD member in any capacity for 10 business days, and required to pay \$18,800 in disgorgement of commissions. Groce also will attend sales practice training. Without admitting or denying the allegations, Groce consented to the described sanctions and to the entry of findings that he made unsuitable mutual fund recommendations to his member firm's customers. NASD found that Groce recommended that customers switch from Class A to Class B shares in different fund families. The findings stated that these recommendations were unsuitable because there were funds within the family of funds that were sold with investment objectives and holdings comparable to the funds that were purchased. As a result, customers could have taken advantage of "free exchanges" within their existing funds at no additional cost. Instead, the customers incurred higher fees and a contingent deferred sales charge period, while Groce received a full commission on each new purchase. In addition, NASD found that Groce also failed to take advantage of a promotion by one mutual fund family that was offering discounted sales charges and lower contingent deferred sales charges on certain shares, and received additional commissions through the unsuitable recommendations.

Groce's suspension began September 16, 2002, and concluded at the close of business September 27, 2002. (NASD Case #C9B020056)

George Michael Loughry (CRD #1241921, Registered Representative, Greensburg, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500, suspended from association with any NASD member in any capacity for 10 business days, and required to disgorge \$4,250 in commissions received. In addition, Loughry will attend sales practice training with an emphasis on mutual fund issues. The fine must be paid before Loughry reassociates with any NASD member following the suspension or before requesting

relief from any statutory disqualification. Without admitting or denying the allegations, Loughry consented to the described sanctions and to the entry of findings that he made unsuitable mutual fund recommendations to his member firm's customers. NASD found that Loughry recommended that customers switch from Class A shares to Class B shares in different fund families. NASD determined that these recommendations were unsuitable because there were funds within a family of funds that were sold with investment objectives and holdings comparable to the funds that were purchased. The findings stated that, as a result, the customers could have taken advantage of "free exchanges" within their existing funds at no additional cost; instead, the customers incurred higher fees and a contingent deferred sales charge period while Loughry received a full commission.

Loughry's suspension began September 16, 2002, and concluded at the close of business September 27, 2002. (NASD Case #C9B020055)

James Brian Moran (CRD #1180416, Registered Representative, Basking Ridge, New Jersey) was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Moran engaged in outside business activity without providing his member firm with prompt written notice.

Moran's suspension began September 16, 2002, and concluded at the close of business September 27, 2002. (NASD Case #C9B010041)

November Actions

Salvatore Carrizzo, Jr. (CRD #2276381, Registered Representative, Massapequa Park, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for one year. In light of the financial status of Carrizzo, no monetary sanctions have been imposed. Without admitting or denying the allegations, Carrizzo consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Carrizzo's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. (NASD Case #C9B020067)

Brian Francis Colby (CRD #1896649, Registered Representative, Boston, New York) 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 allegations, Colby consented to the described sanction and to the entry of findings that he engaged in Free-Riding by purchasing shares in the "hot issue" offerings (where shares traded at a premium in the aftermarket) through the account of a public customer while registered with his member firm. The findings also stated that Colby provided false and/or misleading responses to NASD during an on-the-record interview. **(NASD Case #C9B020064)**

First Institutional Securities, LLC (CRD #23910, West Paterson, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to pay \$1,840 in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported to the Automated Confirmation Transaction ServiceSM (ACTSM) the capacity in which it had acted and failed to report trades properly. The findings also stated that the firm failed to display immediately customer limit orders in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, and failed to contemporaneously or partially execute customer limit orders after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. In addition, NASD found that the firm incorrectly notified a customer that the trade had been executed on an agency basis, when, in fact, the trade had been effected on a principal basis and failed to maintain an order ticket for transactions and the order tickets failed to reflect the correct execution or entry time. **(NASD Cases #C9B020072 and C9B020073)**

Lawrence John LaSala (CRD #2237835, Registered Representative, Oak Ridge, New Jersey) 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 allegations, LaSala consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. **(NASD Case #C9B020065)**

Christopher John Lester (CRD #2875370, Registered Representative, Somerset, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. In light of the financial status of Lester, no monetary sanctions have been imposed. Without admitting or denying the allegations, Lester consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Lester's suspension began October 21, 2002, and will conclude at the close of business October 20, 2004. **(NASD Case #C9B020066)**

James Lopresti (CRD #3236682, Associated Person, Staten Island, 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 one year. The fine must be paid before Lopresti reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lopresti consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD request for information.

Lopresti's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. **(NASD Case #C9B020061)**

Reinaldo Williams, Jr. (CRD #2419320, Registered Representative, Clifton, New Jersey) 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 allegations, Williams consented to the described sanction and to the entry of findings that, without authorization, he effected numerous transactions in his member firm's error account and then transferred some of the transactions into his personal account. **(NASD Case #C9B020069)**

December Actions

Dennis O. Ayers (CRD #2197712, Registered Representative, Mountainside, New Jersey) 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 allegations, Ayers consented to the described sanction and to the entry of findings that he improperly obtained \$20,138 from his member firm by submitting expense reports that overstated his actual expenses. **(NASD Case #C9B020074)**

Arthur George Baker, Jr. (CRD #851291, Registered Principal, Colts Neck, New Jersey) 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 principal capacity for 15 business days. Without admitting or denying the allegations, Baker consented to the described sanctions and to the entry of findings that he failed to adequately and properly supervise a representative's unauthorized trading activity in public customers' accounts. The findings also stated that Baker failed to file with NASD information on behalf of a former member firm relating to a claim for damages by a public customer that Baker agreed to settle on behalf of the firm.

Baker's suspension began December 2, 2002, and will conclude at the close of business December 20, 2002. **(NASD Case #C9B020077)**

Antonio Costanzo (CRD #2233347, Registered Representative, Wayne, New Jersey) 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 allegations, Costanzo consented to the described sanction and to the entry of findings that he effected transactions in public customers' accounts without the customers' prior knowledge, authorization, or consent. **(NASD Case #C9B020078)**

Michael Kim Kalmaer (CRD #2610334, Registered Representative, New York, New York) was fined \$5,000, suspended from association with any NASD member in any capacity for 15 business days, and required to complete the Regulatory Element of Continuing Education annually for four years after he re-enters the securities industry. The sanctions were based on findings that Kalmaer willfully failed to disclose material facts on his Form U-4.

Kalmaer's suspension began November 18, 2002, and concluded at the close of business December 3, 2002. **(NASD Case #C9B020016)**

Anthony Gerald Mannuzza, Jr. (CRD #2182639, Registered Representative, Fairton, New Jersey) 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 allegations, Mannuzza consented to the described sanction and to the entry of findings that he converted \$627,355 from his member firm's customers by falsely representing to them that he would use their funds to purchase mutual funds on their behalf. The findings stated that Mannuzza caused the customer funds to be deposited into his personal bank accounts, and then withdrew the proceeds for his personal use without customer consent or authority. **(NASD Case #C9B020070)**

Robert Miragliotta (CRD #2443610, Registered Representative, Clark, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Miragliotta reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Miragliotta consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notification to his member firm. The findings also stated that Miragliotta willfully failed to amend his Form U-4 to disclose a material fact while associated with a member firm.

Miragliotta's suspension began November 18, 2002, and will conclude May 17, 2003. **(NASD Case #C9B020079)**

Seaboard Securities, Inc. (CRD #755, Florham Park, New Jersey) and Joseph Thomas Zappala (CRD #475869, Registered Principal, Pilesgrove, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Zappala was fined \$5,000, suspended from association with any NASD member in any principal capacity for 90 days, and required to requalify as a general securities principal (Series 24). Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Zappala, failed to enforce its written supervisory procedures regarding the review of incoming correspondence. Specifically, the firm's

supervisory procedures required all incoming correspondence to be opened and reviewed by a principal or designee immediately upon receipt. However, a registered representative of the firm received customer redemption checks issued by a mutual fund worth approximately \$282,000, made payable to the mutual fund customers "in care of" the registered representative, who never gave the checks to the customers and, instead, converted the funds for personal use.

Zappala's suspension began December 2, 2002, and will conclude March 1, 2003. **(NASD Case #C9B020075)**

Amy Shui (CRD #707519, Registered Representative, Long Branch, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Shui consented to the described sanction and to the entry of findings that she effected transactions in public customers' accounts without the customers' prior knowledge, authorization, or consent. NASD also found that, without the knowledge or approval of her member firm, Shui paid customers \$10,000 in exchange for the customers' agreement not to file an arbitration statement of claim against her. **(NASD Case #C9B020080)**

Jeffery Scott Sloan (CRD #1845998, Registered Representative, Belle Mead, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, required to pay \$40,410 in disgorgement of commissions in partial restitution to public customers, and suspended from association with any NASD member in any capacity for six months. The fine and restitution amount must be paid before Sloan reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sloan consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firms, in that he effected various promissory note transactions.

Sloan's suspension began November 18, 2002, and will conclude May 17, 2003. **(NASD Case #C9B020076)**

Stephen Robert Walling (CRD #2265946, Registered Representative, Jackson, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Walling engaged in unauthorized trading in the accounts of public customers without the customers' prior knowledge, authorization, or consent. In addition, Walling failed to respond to NASD requests for information. **(NASD Case #C9B020039)**

District 10 The five boroughs of New York City, and Long Island

October Actions

Fanglun Michael Chai (CRD #3093902, Registered Representative, Bronx, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Chai made unsuitable recommendations to a public customer and engaged in excessive trading in the customer's account based on the customer's financial situation. The findings also stated that Chai executed discretionary transactions in the account of a public customer without obtaining the customer's written authorization or his member firm's written acceptance of the account as discretionary. **(NASD Case #C10020010)**

Michael Coyle (CRD #2728846, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Coyle consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Coyle's suspension began September 3, 2002, and will conclude March 2, 2003. **(NASD Case #C10020078)**

Cornelius L. Cu (CRD #2639850, Registered Principal, Hillsborough, California) was barred from association with any NASD member in any capacity. The sanction is based on findings that Cu failed to respond to NASD requests for information. NASD also found that Cu opened a joint securities account, failed to provide written notice to his member firm of the existence of an account at another member firm, and failed to provide written notice to the other member firm of his registration with a member firm. The findings also stated that Cu purchased shares of an initial public

offering (IPO) that traded at a premium in the secondary market and was considered a "hot issue" in violation of the Free-Riding and Withholding Interpretation. **(NASD Case #C10020028)**

Brian Abraham Fried (CRD #2659427, Registered Representative, Smithtown, New York) 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, Fried consented to the described sanctions and to the entry of findings that he exercised discretionary authority in the joint account of public customers without obtaining their prior written authorization and without his member firm's prior written acceptance of the account as discretionary. The findings also stated that Fried prepared a letter and submitted it to his member firm that requested an address change for a public customer that the customer did not authorize, sign or authorize Fried to sign on his behalf. In addition, the findings stated that Fried forged the customer's signature on the letter, provided the falsified letter to his member firm, and had the customer's account documentation forwarded to a post office box without the customer's knowledge, authorization, or consent. NASD also found that Fried failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C10020066)**

Peter Jonathan Glaser (CRD #2504182, Registered Representative, Halandale, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$21,400, plus interest, in restitution to public customers. Restitution must be paid before Glaser requests any relief from any statutory disqualification. Without admitting or denying the allegations, Glaser consented to the described sanctions and to the entry of findings that, in connection with solicitations to public customers, he intentionally and/or recklessly made representations that were material, false, and made without any reasonable basis. The findings also stated that Glaser effected securities transactions away from his member firm and failed to provide written notification to, or obtain written approval from, his member firm. **(NASD Case #C10020080)**

Stephen Nicholas McConnell (CRD #2689307, Registered Representative, West Orange, New Jersey) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts

of public customers without their prior knowledge, authorization, or consent. The complaint also alleges that McConnell maintained a joint securities account at his member firm, purchased and sold various option contracts in the account, and failed to have sufficient funds in the account to cover the cost of options exercised on McConnell's behalf in the account by his member firm. In addition, the complaint alleges that McConnell's failure to deposit cash or securities against the unsecured debit balance in his account willfully caused his member firm to make an extension of credit to him in violation of Regulation T promulgated by the Board of Governors of the Federal Reserve System. The complaint further alleges that McConnell failed to respond to NASD requests for information and documents. **(NASD Case #C10020082)**

Merrill Lynch, Pierce, Fenner & Smith, Inc. (CRD #7691, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$65,000, and required to provide to NASD within 60 days a copy of the firm's written procedures regarding the accurate and prompt submission of all Form U-5 filings pertaining to the termination of persons for whom the firm has maintained a registration with NASD, indicating the name and title of the principals responsible. The firm is also required for one year to continue the firm's ongoing review of its current policies and procedures relevant to the reporting of terminations on Forms U-5, and to prepare and submit semi-annual reports to NASD that set forth the findings of the review and any corrective actions implemented. In addition, the firm will submit to NASD for one year semi-annual summary reports outlining the details of every late Form U-5 filing pertaining to the termination of a person for whom the firm maintained a registration, if any, made within the prior six months with an explanation of the cause of delay, the principal responsible for ensuring the timely filing of the Forms U-5 in question, and any corrective action taken. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to file Forms U-5 within 30 days of termination of the associated person. **(NASD Case #C10020077)**

Bill Plakos a/k/a William Plagianakos (CRD #3221829, Registered Representative, Brooklyn, 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 10 business days. The fine must be paid before Plakos

reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Plakos consented to the described sanctions and to the entry of findings that he effected transactions in the account of a public customer without obtaining prior written authorization from the customer to exercise discretion or without having the account accepted in writing as a discretionary account by his member firm.

Plakos' suspension began October 7, 2002, and will conclude at the close of business October 18, 2002. (NASD Case #C10020086)

Joseph Brian Shevlin, Jr. (CRD #2125060, Registered Representative, Bayonne, New Jersey) was named as a respondent in an NASD complaint alleging that, in connection with the sale of common stock to retail customers, Shevlin, by the use of the instrumentalities of interstate commerce or of the mails, knowingly or recklessly made material misrepresentations and omitted to state material facts; effected transactions in, or induced the purchase or sale of, securities by means of a manipulative, deceptive, or fraudulent device. The complaint also alleges that Shevlin solicited public customers to purchase common stock and made baseless and improper price predictions. In addition, the complaint alleges that Shevlin purchased securities in the accounts of public customers without the customers' written or oral authorization. (NASD Case #C10020075)

Colin Eric Whittle (CRD #3131319, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he effected transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Whittle failed to respond to NASD requests for information and documents. (NASD Case #C10020085)

Kevin Dacosta Worrell (CRD #2884901, Registered Representative, Queens Village, New York) was named as a respondent in an NASD complaint alleging that he engaged in an unauthorized transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent. (NASD Case #C10020074)

November Actions

Joseph Abbondante (CRD #1879052, Registered Representative, Freehold, New Jersey) and Daniel Timothy Pszanka (CRD #2499042, Registered Representative, Denver, Colorado) were named as respondents in an NASD complaint alleging that they engaged in private securities transactions without prior written notice to, or approval from, their member firm. The complaint also alleges that, in connection with customers' investments in a limited partnership, Abbondante and Pszanka, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; engaged in acts, practices, or courses of business which operated, or would operate, as a fraud or deceit; and/or effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. The complaint further alleges that Abbondante and Pszanka engaged in an outside business activity without providing written notice to their member firm. Furthermore, the complaint alleges that Abbondante and Pszanka created and provided investment account statements to public customers that contained purported information with respect to each customer's investment in a limited partnership including the amount and location of their principal investments, the performance of their investments, and their returns on investments that were false, misleading, deceptive, and without a factual basis. (NASD Case #C10020090)

John Christian Ferraro (CRD #2756017, Registered Representative, Islip, New York) was named as a respondent in an NASD complaint alleging that he executed transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Ferraro exercised discretion in the accounts of public customers without obtaining their prior authorization or obtaining his member firm's prior written acceptance of the accounts as discretionary. In addition, the complaint alleges that Ferraro executed transactions in the account of a public customer without reasonable grounds for believing that the level of activity represented by the transactions was suitable

for the customer based on his financial situation, investment objectives, and needs. (NASD Case #C10020088)

Michael Baldo a/k/a Miguel Baldo Lozano (CRD #2620455, Registered Representative, Long Island City, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Baldo consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent.

Baldo's suspension began October 21, 2002, and will conclude at the close of business January 20, 2003. (NASD Case #C10020062)

Vincent Roger Bickler (CRD #2042291, Registered Representative, Toms River, New Jersey) was named as a respondent in an NASD complaint alleging that he forged the names of public customers on checks totaling \$1,359 issued to the customers by Bickler's member firm, and deposited the checks into his own personal bank account without the customers' knowledge, authorization, or consent, thereby converting the funds for his own use and benefit. The complaint also alleges that Bickler failed to respond to NASD requests for information and documents. (NASD Case #C10020095)

Marlon Francisco Delgado (CRD #2531325, Registered Representative, Franklin Square, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and required to requalify by exam as a general securities representative. If Delgado fails to requalify within 60 days after conclusion of the suspension, he shall not associate with any NASD member in any capacity until he requalifies. The fine must be paid before Delgado reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Delgado consented to the described sanctions and to the entry of findings that he effected the sale of securities in at least three states in which he was not yet registered, and attempted to conceal it by placing the trades under another broker's name. The findings stated that Delgado solicited public customers to purchase securities, downplayed the

attendant investment risks, and made unwarranted price predictions, causing the customers to authorize and pay for the transactions. NASD also found that Delgado effected transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent.

Delgado's suspension began October 21, 2002, and will conclude at the close of business April 20, 2004. (NASD Case #C10020093)

William Francis Kirincich (CRD #1388826, Registered Principal, New York, New York) 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 principal or supervisory capacity for 30 days. The fine must be paid before Kirincich reassociates with any NASD member. Without admitting or denying the allegations, Kirincich consented to the described sanctions and to the entry of findings that he permitted persons associated with his member firm to engage in the securities business of the firm as general securities representatives and/or assistant representatives—order processing while they were not registered with the NASD in any capacity.

Kirincich's suspension began October 7, 2002, and concluded at the close of business November 5, 2002. (NASD Case #C10020097)

Northeast Securities, Inc. (CRD #25996, Mitchelfield, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, during the contingency period of a private placement offering in which the firm served as placement agent for a best efforts "part-or-none" private placement self-offering of interests in the firm, it failed to ensure that the money or other considerations received were promptly transferred to a bank that had agreed in writing to hold all such funds in escrow for the persons who had the beneficial interests therein, and to transmit or return such funds directly to the persons entitled thereto when the appropriate event or contingency had occurred. (NASD Case #CLI020008)

Joseph John Papeo (CRD #2476778, Registered Representative, Brooklyn, New York) 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 allegations, Papeo consented to the described sanction and to the entry of findings that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Papeo, in an exercise of discretion, effected transactions in the joint account of public customers without their prior written authorization and his member firm's written acceptance of the account as discretionary. In addition, NASD found that Papeo exercised discretion in the account of public customers and effected a purchase transaction without having reasonable grounds for believing that the transaction was reasonable based on the customers' financial situation, investment objectives, and financial needs. NASD also found that Papeo effected transactions in his joint trading account at his member firm without paying for the transactions, transferred at least \$8,000 to his joint personal bank account, and wrote a \$20,000 check from his personal bank account to his member firm's clearing firm to pay for transactions effected in his joint trading account that was returned for insufficient funds, causing his firm to be left with a \$21,874.30 debit balance. Furthermore, NASD found that Papeo failed to respond truthfully during an NASD on-the-record interview, failed to respond to NASD requests for documents, and failed to respond to NASD requests to appear for a follow-up on-the-record interview. **(NASD Case #C10020094)**

Richard Anthony Takacs (CRD #2479382, Registered Principal, Holbrook, New York) was named as a respondent in an NASD complaint alleging that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The complaint also alleges that Takacs failed to respond truthfully and non-deceptively during an NASD on-the-record interview. In addition, the complaint alleges that Takacs prepared and mailed a letter to public customers and failed to obtain approval of the letter from a designated principal at his member firm prior to mailing the letter. **(NASD Case #C10020096)**

Peter Van Hamm (CRD #2530393, Registered Representative, Dunellen, New Jersey) was fined \$25,000 and suspended from association with any NASD member in any capacity for one year. The fine is due and payable upon Hamm's re-entry into the securities industry. The sanctions are based on findings that Hamm executed unauthorized transactions in the accounts of public customers.

Hamm's suspension began November 4, 2002, and will conclude at the close of business November 3, 2003. **(NASD Case #C10010082)**

Stanley Walker (CRD #2601447, Registered Representative, Crestwood, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Walker transferred approximately \$35,500 from a public customer's checking account to his own checking account without the customer's knowledge or permission and used the funds for his own benefit. The findings also stated that Walker failed to respond to NASD requests for information. **(NASD Case #C10020050)**

December Actions

Ameriprop, Inc. (CRD #24305, Melville, New York) and Steven Douglas Klein (CRD #1940511, Registered Principal, North Babylon, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Klein was also prohibited from acting as an investment company and variable contracts products principal until he becomes duly licensed as an investment company and variable contracts products principal or 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 Klein, allowed an individual associated with the firm to engage in the sale of Direct Participation Programs while he was not properly registered with NASD. The findings also stated that the firm allowed Klein to act as a principal in investment company and variable contracts products while not registered with NASD in that capacity. **(NASD Case #CLI020009)**

Michael Aaron Bodack (CRD #2903421, Registered Representative, New York, New York) 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 nine months. Without admitting or denying the allegations, Bodack consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, and failed to provide written notification to, or receive written approval from, his member firm.

Bodack's suspension began November 18, 2002, and will conclude August 17, 2003. **(NASD Case #C10020104)**

Marcus Luis Carrasquillo (CRD #2954752, Registered Representative, Ozone Park, 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 45 days. The fine must be paid before Carrasquillo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Carrasquillo consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U-4.

Carrasquillo's suspension began November 4, 2002, and will conclude at the close of business December 18, 2002. **(NASD Case #C10020101)**

Alan Shawn Kiedaisch (aka Alan West Kiedaisch, West Alan Kiedaisch, West Shawn Kiedaisch, Shawn A. Kiedaisch, and Shawn Barratt) (CRD #4282821, Associated Person, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Kiedaisch willfully failed to disclose material information on his Form U-4. The findings also stated that Kiedaisch failed to respond to NASD requests for information. **(NASD Case #C10020054)**

Ameeta J. Patel (CRD #4375920, Associated Person, London, United Kingdom) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 31 days. Without admitting or denying the allegations, Patel consented to the described sanctions and to the entry of findings that she was in possession of unauthorized materials during a general securities representative Series 7 qualification exam.

Patel's suspension began December 2, 2002, and will conclude January 1, 2003. **(NASD Case #C10020106)**

Edward Walter Planche (CRD #4400866, Associated Person, Arlington, 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 allegations, Planche consented to the described sanction and to the entry of findings that, in order to deceive a member firm's personnel, he presented a document that purported to indicate he received a passing score on a general securities representative Series 7 exam when, in

fact, he had received a failing score on the exam. The findings also stated that Planche failed to respond to NASD requests to appear and provide testimony at an on-the-record interview. **(NASD Case #C10020105)**

Win Capital Corp. (CRD #36172, Bayville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$21,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it served as placement agent for a "minimum-maximum" "best-efforts" private placement offering of securities and, during the contingency period of the offering, failed to ensure that the money or other consideration it received was promptly transmitted to a bank that had agreed in writing to hold such funds in escrow for the persons who had the beneficial interests therein, and to transmit or return such funds directly to the persons entitled thereto when the appropriate event or contingency had occurred. The findings also stated that the firm executed short-sale transactions on an agency basis as the order entry firm and the contra party to the transaction, and failed to accept the transaction in ACT with the ".S" short-sale indicator.

NASD also found that the firm executed short-sale transactions on a principal basis as market maker, and failed to designate the transactions using the ".X" short-sale exempt modifier. In addition, NASD found that the firm failed to report principal transactions to ACT within 90 seconds in NNM securities, a NASDAQ SC security; and Over-the-Counter Bulletin Board (OTCBB) securities; and, in some of the transactions reported late, the firm failed to report the transactions using the ".SLD" late transaction modifier. NASD found that the firm failed to report to ACT the correct volume of principal transactions in OTCBB and NNM securities. Furthermore, NASD found that the firm failed to execute sell limit orders within 60 seconds of the time the limit orders became marketable, thereby failing to use reasonable diligence to ascertain the best inter-dealer market for the subject security, and to sell in such market so that the resultant price to the customer was as favorable as possible under prevailing market conditions. **(NASD Case #CLI020010)**

Irina Yunayeva (CRD #3225768, Registered Representative, Rego Park, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Yunayeva had imposters take the Series 6 and Series 63 qualification

exams on her behalf. The findings also stated that Yunayeva attempted to have an imposter take the Series 7 qualification exams on her behalf. **(NASD Case #C10020046)**

District 11 Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and New York (except for the counties of Livingston, Monroe, and Steuben; the five boroughs of New York City; and Long Island)

October Actions

Phung M. Le (CRD #3274440, Registered Representative, Springfield, Massachusetts) was barred from association with any NASD member in any capacity. The sanction was based on findings that Le forged public customers' signatures on traditional life insurance death benefit checks and deposited the checks into bank accounts for his own use and benefit. **(NASD Case #C11020011)**

Alfred Milton Lemcke, III (CRD #2404501, Registered Representative, Hingham, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$775,000, plus interest, in restitution to public customers. The restitution amount must be paid before Lemcke reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lemcke consented to the described sanctions and to the entry of findings that he received \$775,000 from public customers, which, without their knowledge or consent, he misappropriated for his own use and benefit. The findings stated that Lemcke obtained the aforementioned customers' funds by falsely representing to customers that he would invest their money in various stocks, mutual funds, and other securities through a purported financial services company, and subsequently provided the customers with periodic false statements reflecting that their investments were generating substantial returns. **(NASD Case #C11020034)**

Martin P. O'Malley (CRD #4417124, Registered Representative, Fitchburg, Massachusetts) 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 O'Malley reassociates with any NASD member following the suspension or

before requesting relief from any statutory disqualification. Without admitting or denying the allegations, O'Malley consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

O'Malley's suspension began September 16, 2002, and will conclude December 15, 2002. **(NASD Case #C11020033)**

November Actions

Allmerica Investments, Inc. (CRD #3960, Worcester, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish an adequate supervisory system reasonably designed to prevent and detect unsuitable mutual fund transactions in customer accounts. The findings also stated that the firm failed to establish reasonable written supervisory procedures for identifying the process the firm used in reviewing and detecting unsuitable mutual fund transactions, and to the extent the firm had written supervisory procedures related to mutual fund transactions, the firm failed to take steps to ensure that the procedures were followed. **(NASD Case #C11020036)**

Donald Francis Dupont (CRD #2581848, Registered Representative, Averill Park, 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 six months. The fine must be paid before Dupont reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dupont consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts by failing to amend his Form U-4.

Dupont's suspension began November 4, 2002, and will conclude May 3, 2003. **(NASD Case #C11020040)**

Nancy Katherine Evans (CRD #2422682, Registered Representative, Marshfield, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Evans consented to the described sanction

and to the entry of findings that, without the knowledge or consent of a public customer, she prepared and signed the customer's signature on Letters of Authorization that authorized wire transfers totaling \$24,254.13 from the customer's account, which were misappropriated by Evans for her own personal use. (NASD Case #C11020038)

Kevin Thomas Ferguson (CRD #4143905, Registered Representative, Boston, Massachusetts) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ferguson issued annuitant checks totaling \$26,040 without the consent or authorization of the annuitants, and converted the funds to his own use and benefit. In addition, Ferguson failed to respond to NASD requests for information. (NASD Case #C11020017)

Herbert Clarence Hearne (CRD #2462835, Registered Principal, Cotuit, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one month. The fine must be paid before Hearne reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hearne consented to the described sanctions and to the entry of findings that he agreed to process the paperwork to open accounts and purchase transactions, effect the transactions, and pay the commissions to a registered representative of another member firm once the representative became registered with his member firm. NASD found that Hearne paid the representative commissions for transactions that occurred prior to the representative becoming registered with his member firm. In addition, NASD determined that Hearne failed to take appropriate action to supervise a registered representative who recommended unsuitable transactions in customer accounts, which was reasonably designed to prevent the violations by the representative and achieve compliance with applicable securities laws, regulations, and NASD rules.

Hearne's suspension began October 21, 2002, and will conclude at the close of business November 20, 2002. (NASD Case #C11020035)

December Actions

Anthony Oh (CRD #4460103, Associated Person, Avon, Connecticut) 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 allegations, Oh consented to the described sanction and to the entry of findings that he improperly obtained \$392.50 from his employer by submitting an expense report that overstated his actual expenses. (NASD Case #C11020041)

John Patrick Sullivan, Jr. (CRD #2223824, Registered Principal, Boston, Massachusetts) 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 20 business days. Without admitting or denying the allegations, Sullivan consented to the described sanctions and to the entry of findings that he promised a public customer that, for a one-month period, he would guarantee her against any loss in the value of her shares of a stock if she agreed not to sell those shares.

Sullivan's suspension began December 2, 2002, and will conclude at the close of business December 30, 2002. (NASD Case #C11020042)

Enforcement Department

October Actions

Richard Joseph Monello (CRD #1644006, Registered Principal, Irving, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association in a principal or supervisory capacity for two weeks. Without admitting or denying the allegations, Monello consented to the described sanction and to the entry of findings that, as the direct supervisor of a branch office of a member firm, he failed to supervise a representative with regard to materials posted on Web sites, and failed to approve, before use, the material posted on the Web sites.

Monello's suspension began October 7, 2002, and will conclude October 20, 2002. (NASD Case #CAF020031)

Louis Michael Montaino (CRD #2570300, Registered Representative, Middle Village, New York) and Michael Robert Marcus (CRD #2291751, Brooklyn, New York) submitted an Offer of Settlement in which Marcus was fined \$20,000 and suspended from association with any NASD member in any capacity for eight months. Montaino was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, the respondents

consented to the described sanctions and to the entry of findings that they, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange, knowingly or recklessly employed manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities; knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances; or made untrue statements of material fact and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

The findings also stated that Marcus arranged for his girlfriend to purchase shares of stock for her account at a steep discount to the prevailing market price, began placing day limit purchase orders for shares of stock with a market maker to create the appearance of interest and activity in the stock, and placed all stock purchased into the firm's proprietary account. NASD also found that Marcus knew he was participating in the manipulation of the stock; knew, or was reckless in not knowing, that the inside bid was increasing during the time he placed his limit orders; and knew that the market maker with whom he was placing the limit orders held the inside bid most of the time and that there was virtually no volume passing over the ticker in this security other than that created by the limit orders. In addition, NASD found that Montaino and another broker with whom he shared a registered representative number solicited public customers to purchase the stock, failed to disclose material risks, and fraudulently misled investors in connection with their decision to purchase and sell the common stock. Furthermore, the findings stated that Montaino solicited and obtained customer orders for purchases of the stock and held the orders for execution without authorization from the customers until Marcus filled the orders with shares held in inventory by their member firm, thereby realizing approximately \$1,900,000 in illicit profits for the firm. Moreover the findings stated that Marcus sold the shares of stock in his girlfriend's account, realizing approximately \$29,000 in illicit profits for the account.

Montaino's suspension began September 16, 2002, and will conclude March 15, 2003. Marcus' suspension began September 16, 2002, and will conclude at the close of business May 15, 2003. (NASD Case #CAF010025)

November Actions

Timothy Roderick Chamberlain (CRD #2693994, Registered Principal, Costa Mesa, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. In light of the financial status of Chamberlain, no monetary sanctions have been imposed. Without admitting or denying the allegations, Chamberlain consented to the described sanction and to the entry of findings that he participated in a scheme to manipulate the share price of a common stock in exchange for guaranteed profits for stocks that he bought and sold at the direction of two individuals. The findings stated that Chamberlain also accepted compensation in the form of shares of stock, which he received in nominee accounts. In addition, the findings stated that Chamberlain failed to notify his member firm and the executing member firm at which he traded his shares of stock, in writing, of his association with the other member firm prior to opening his trading account or placing an initial order for the purchase or sale of sales of stock. (NASD Case #CAF010021)

CyBerBroker, Inc. n/k/a CyberTrader, Inc. (CRD #44523, Austin, Texas), and Mark Kurt Stryker (CRD #2740097, Registered Principal, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which they were each censured and fined \$15,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm placed an advertisement on its Web site and on the Web sites of other parties that said it was the "#1 Electronic Broker For Active Online Traders" and included a disclaimer that the statement was based on "industry research" conducted by an independent financial services firm when, in fact, the firm internally utilized a different analysis to determine that it was the highest-ranked firm and failed to disclose in its communications with the public its analysis or the basis for its determination, causing the statement to be misleading. The findings also stated that Stryker conceived and approved the internal analysis done by the firm and approved the "global" use of the phrase, providing the firm's compliance staff with evidence sufficient to support the statement. (NASD Case #CAF020040)

Walter William Durchhalter (CRD #1428989, Registered Principal, Middle Village, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any

NASD member in any capacity for one year. The fine must be paid before Durchhalter reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Durchhalter consented to the described sanctions and to the entry of findings that, as head trader of his member firm, he caused his firm to bid for, purchase, and induce others to purchase warrants while the firm was engaged in a distribution of the warrants. The findings stated that Durchhalter posted the firm's bid and ask price quotations at prices intended to induce others to purchase warrants from, and sell warrants to, his member firm in the aftermarket during these periods and executed purchases of warrants on behalf of his member firm.

Durchhalter's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. (NASD Case #CAF020034)

James F. Salata (CRD #1520552, Registered Representative, Amity, Pennsylvania) 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 allegations, Salata consented to the described sanction and to the entry of findings that he recommended and sold callable Certificates of Deposit (CDs) to public customers and made material misrepresentations during his sales presentations. The findings also stated that Salata misrepresented 15- or 20-year callable CDs as one- or two-year CDs; misrepresented that the CDs would be called within a specific period of time; and informed customers that the callable CDs could be redeemed without penalty at any time with no risk to principal when, in fact, the callable CDs had to be sold on the secondary market to obtain a return of principal prior to maturity with a possible significant loss to principal in such a transaction. In addition, the findings stated that Salata informed customers that they could redeem callable CDs at any time with minimal risk to principal and that any loss would be covered by the interest earned. (NASD Case #CAF020033)

James Theodore Wade (CRD #1070305, Registered Representative, Fairlawn, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by exam following the suspension before acting in the securities industry in any capacity. The fine

must be paid before Wade reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wade consented to the described sanctions and to the entry of findings that he made material misrepresentations to public customers during the sale of callable CDs. The findings stated that Wade materially misrepresented that the callable CDs were one-year CDs when, in fact, they had 15- or 20-year maturity dates. Wade also misrepresented that the callable CDs could be redeemed without penalty at any time with no risk to principal when, in actuality, the callable CDs must be sold on the secondary market to obtain a return of principal prior to maturity.

Wade's suspension began October 21, 2002, and will conclude at the close of business October 20, 2004. (NASD Case #CAF020044)

December Actions

Michael Joseph Dinunzio (CRD #2180180, Registered Representative, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 15 business days. The fine must be paid before Dinunzio reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dinunzio consented to the described sanctions and to the entry of findings that he settled a customer complaint without the consent or knowledge of his member firm, and failed to report promptly to his member firm the existence of any claim for damages by a public customer that is settled for an amount exceeding \$15,000.

Dinunzio's suspension began November 18, 2002, and concluded at the close of business December 9, 2002. (NASD Case #CAF020051)

Donner Corporation International n/k/a National Capital Securities, Inc. (CRD #37702, Oklahoma City, Oklahoma), Jeffrey Lyle Baclet (CRD #2022409, Registered Principal, Santa Ana, California), Vincent Michael Uberti (CRD #2618595, Registered Principal, Santa Ana, California), and Paul Alan Runyon (CRD #3159920, Registered Representative, Lake Forest, California) were named as respondents in an NASD complaint alleging that the firm, acting through Baclet and Uberti, intentionally or recklessly prepared and

disseminated research reports on reporting companies that included fraudulent, exaggerated, and unwarranted claims, and failed to disclose material information regarding the true financial condition of the companies and the "going concern" opinion of the auditor. The complaint also alleges that the firm, acting through Baclet and Uberti, failed to provide in the research reports any reasonable basis for recommendations, and to explain the recommendations in light of the going concern opinions included in auditor reports and the underlying financial conditions of the companies. In addition, the complaint alleges that the firm, Baclet, and Uberti directly or indirectly employed devices, schemes, or artifices to defraud; made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit upon persons in connection with the purchase or sale of securities.

NASD also alleges that the firm, Baclet, and Uberti failed to disclose in the research reports the compensation the firm received for the preparation and dissemination of the research reports. Moreover, the complaint alleges that the firm, acting through Baclet, failed to obtain the signature or initials of a principal of the firm indicating approval of the research reports it disseminated, and failed to establish or maintain written procedures to supervise the preparation and dissemination of research reports reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. Furthermore, the complaint alleges that Uberti and Runyon issued a research report with a speculative buy recommendation for a common stock and failed to disclose material information that an auditor had issued a going concern opinion for the stock and the financial information about the stock that made communications with the public misleading. NASD also alleges that Uberti and Runyon exaggerated the market potential for companies issuing common stock and ignored specific facts, causing the research report to be misleading. The complaint also alleges that Uberti and Runyon directly or indirectly employed devices, schemes, or artifices to defraud; made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business that operated or

would operate as a fraud or deceit upon persons in connection with the purchase or sale of securities. Furthermore, the complaint alleges that Uberti and Runyon failed to disclose the existence of "going concern" opinions in research reports, failed to disclose the underlying basis cited by the auditor for the "going concern" opinions, failed to disclose the true financial condition of the companies and other material information, and made exaggerated, false, and misleading statements about companies in research reports. (NASD Case #CAF020048)

Coleen Marie Garay (CRD #2611350, Registered Principal, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in a registered principal capacity for 30 days. The fine must be paid before Garay reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Garay consented to the described sanctions and to the entry of findings that, as her member firm's compliance director, she failed to implement adequate written supervisory procedures to identify steps to achieve compliance with Section 10(b) of the Securities Exchange Act of 1934 and Regulation M, failed to designate a person responsible for taking those steps, and failed to identify how compliance with the procedures would be evidenced.

Garay's suspension began November 18, 2002, and will conclude at the close of business December 17, 2002. (NASD Case #CAF020050)

Matthew Greenwald (CRD #229262, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 30 days. Without admitting or denying the allegations, Greenwald consented to the described sanctions and to the entry of findings that he failed to establish and maintain written supervisory procedures and systems reasonably designed to achieve compliance with federal securities laws and NASD rules relating to investment banking and trading on behalf of his member firm. The findings also stated that Greenwald's member firm's written supervisory procedures failed to specify the procedures that the firm's senior management was to follow to discharge supervisory responsibilities, and there were no systems

or procedures in place to allow the Head Trader or anyone to become aware of potential red flags that the firm was engaged in a continuing distribution.

Greenwald's suspension began December 2, 2002, and will conclude at the close of business December 31, 2002. (NASD Case #CAF020007)

Prudential Securities, Inc. (CRD #7471, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to undertake to withdraw any New York choice-of-law defense asserted in any pending arbitration, not to assert a New York choice-of-law defense in any future arbitration proceeding, and to instruct all in-house and outside attorneys representing the firm in arbitration proceedings not to assert a New York choice-of-law defense. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that in arbitration proceedings filed with NASD, it had public customers sign a customer agreement stating that the terms of the agreement would be governed by the laws of the State of New York. The findings also stated that the firm asserted that New York law applied to the proceedings by virtue of the governing law clause in the customer agreement, and that New York law precluded an award of punitive damages or attorney fees. (NASD Case #CAF020052)

Douglas Keith Throneburg (CRD #2515160, Registered Representative, Bloomington, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam following the suspension before acting in the securities industry in any capacity. Throneburg must pay the fine before he reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Throneburg consented to the described sanctions and to the entry of findings that he made misrepresentations to public customers in his recommendations and sale of long-term callable certificates of deposit (CDs) to public customers. The findings also stated that Throneburg described the investments as one-year callable CDs when, in fact, the CDs matured in 10, 15, or 20 years and could only be called at the end of the first year if the issuing bank chose to do so. In addition, NASD found that if the customer wanted a return of principal at the one-year

point, and the investment was not called, the customer would be required to sell the CD on the secondary market and incur a significant risk of loss of principal.

Throneburg's suspension began November 18, 2002, and will conclude at the close of business November 17, 2003. (NASD Case #CAF020049)

Market Regulation Department

October Actions

CIBC World Markets Corp. (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented to the firm at its published bid or published offer in an amount up to its published quotation size upon presentment, and thereby failed to honor its published quotation. The findings also stated that the firm, as a market maker in securities, locked/crossed the market during the pre-opening market period and failed to send immediately thereafter a Trade-or-Move message through SelectNet® to the market participant whose quote it locked or crossed that was priced at the receiving market participant's quoted price, and/or failed to send a Trade-or-Move message through SelectNet with an aggregate size of at least 5,000 shares to all market participants whose quotes it locked/crossed. NASD also found that the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening; received a Trade-or-Move message in each instance through SelectNet; and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. (NASD Case #CMS020146)

Richard E. Dirickson, Jr. (CRD #68537, Registered Representative, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Dirickson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dirickson

consented to the described sanctions and to the entry of findings that he executed transactions in a security, at or near the close of the market, for the purpose of affecting the reported closing last-sale price in the security.

Dirickson's suspension began September 16, 2002, and will conclude at the close of business October 15, 2002. **(NASD Case #CMS020145)**

GVR Company LLC (CRD #111528, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured; fined \$75,000; required to pay \$1,644.20, plus interest, in restitution to public customers; and required to revise its written supervisory procedures concerning trade reporting, ACT compliance, best execution, Limit Order Protection Interpretation, books and records, SEC Order Execution Rules, One Percent Rule, 21(a) Report issues, transaction reporting, recordkeeping, locked and crossed markets, short sales, front running, anti-competitive practices, registration of traders and supervisors, and the Order Audit Trail SystemSM (OATSSM). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such 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 such security. NASD also found that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM, NASDAQ SmallCap, OTC Equity and eligible securities, and failed to designate through ACT such last-sale reports as late. NASD also determined that the firm incorrectly designated as ".T" through ACT last-sale reports of transactions in OTC Equity, NNM, and SmallCap securities executed during normal market hours.

The findings also stated that the firm failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution; and as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market participants whose quotations would be locked or crossed, entered a bid or ask quotation in The NASDAQ Stock Market, Inc., which

caused a locked or crossed market condition to occur in each instance. In addition, NASD determined 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 customer was as favorable as possible under prevailing market conditions. Furthermore, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations and the rules of NASD concerning trade reporting, ACT compliance, best execution, Limit Order Protection Interpretation, books and records, SEC Order Execution Rules, One Percent Rule, 21(a) Report issues, transaction reporting, recordkeeping, locked and crossed markets, short sales, front running, anti-competitive practices, registration of traders and supervisors, and OATS. **(NASD Case #CMS020139)**

Hill, Thompson, Magid & Co., Inc. (CRD #2202, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$21,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. NASD also found that the firm incorrectly designated as ".PRP" through ACT last-sale reports of transactions in NNM and OTC Equity securities. The findings stated that the firm also failed to report to ACT transactions in NNM, NASDAQ SmallCap, and OTC equity securities with the correct media volume and the correct symbol indicating whether such transactions were effected as principal, riskless principal, or agency. In addition, NASD found that the firm executed short-sale transactions and failed to report each of these transactions to ACT with a short-sale modifier. Furthermore, the findings stated that the firm incorrectly accepted transactions in eligible securities in ACT without correcting the reporting firm's report to ACT that included an incorrect symbol indicating whether the firm executed the transactions in a principal or agency capacity. **(NASD Case #CMS020157)**

HSBC Securities Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in the securities, it failed to execute orders upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning firm quotations. **(NASD Case #CMS020140)**

Murphy & Durieu (CRD #6292, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM securities. **(NASD Case #CMS020148)**

Phillip Louis Trading, Inc. (CRD #19378, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to revise its written supervisory procedures concerning SEC and NASD firm quote and trade-reporting rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders upon presentment and thereby failed to honor its published quotation. NASD also found that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM, NASDAQ SmallCap, and OTC equity securities, and failed to designate through ACT such last-sale reports as late. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning SEC and NASD firm quote and trade-reporting rules. **(NASD Case #CMS020149)**

ProTrader Securities Corporation (CRD #35233, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, and required to revise its written supervisory

procedures concerning OATS. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit to OATS required information on 19 business days during the review period. NASD also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and the rules of NASD concerning OATS. **(NASD Case #CMS020152)**

RBC Dain Rauscher Inc. (CRD #31194, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet to the market maker(s) whose quote(s) it locked or crossed a Trade-or-Move Message(s) that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. NASD found that the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move Message in each instance through SelectNet, and within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move Message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. The findings also stated that the firm, as a registered market maker in securities, failed to execute orders upon presentment and thereby failed to honor its published quotation. **(NASD Case #CMS020138)**

SWS Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it locked/crossed the market during the pre-opening market period and failed to immediately thereafter send a Trade-or-Move Message through SelectNet to the market participant whose quote it locked or crossed that was priced at the receiving market participant's quoted price; and/or failed to send a Trade-or-Move

Message(s) through SelectNet with an aggregate size of at least 5,000 shares to all market participants whose quotes it locked/crossed. (NASD Case #CMS020155)

November Actions

Blake Street Securities, LLC (CRD #44905, Denver, Colorado) and Brad Allen Dowell (CRD #1308189, Registered Principal, Denver, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Dowell was fined \$2,500 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they failed to establish, maintain, and enforce a supervisory system and written supervisory procedures reasonably designed to achieve compliance with Section 17(b) of the Securities Act of 1933 and NASD Conduct Rule 2210(b). The findings stated that the firm and Dowell failed to conduct the required reviews, and thereby failed to prevent a registered representative of the firm from publishing information about stocks on his Web site without fully disclosing the amounts of compensation he received for doing so.

Dowell's suspension began November 4, 2002, and will conclude at the close of business November 8, 2002. (NASD Case #CMS020171)

Ronald James Blekicky (CRD #2615061, Registered Representative, Boulder, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Blekicky reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Blekicky consented to the described sanctions and to the entry of findings that he failed to disclose fully the amounts of compensation he received in exchange for publishing favorable information about stocks on his Internet Web site. The findings also stated that Blekicky failed to have a registered principal of his member firm review and pre-approve his Internet publications. In addition, NASD found that Blekicky maintained a securities account at another broker/dealer without notifying his member firm, and without notifying the firm where the account was opened when he became associated with another member firm.

Blekicky's suspension began November 4, 2002, and will conclude at the close of business November 3, 2003. (NASD Case #CMS020170)

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. The findings also stated that the firm failed to report to the Fixed Income Pricing SystemSM (FIPSSM) transactions in FIPS securities within five minutes after execution. (NASD Case #CMS020178)

KBC Financial Products USA, Inc. (CRD #46709, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NASDAQ National Market[®] (NNM[®]), NASDAQ SmallCapSM (SCSM), and Consolidated Quotation Service (CQS) securities. NASD also found that the firm incorrectly designated as ".SLD" through ACT last-sale reports of transactions in NNM securities and CQS securities reported to ACT within 90 seconds of execution. The findings stated that the firm failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution. (NASD Case #CMS020163)

Eugene Michael Kingman (CRD #1995746, Registered Representative, Holmdel, New Jersey) 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 six months. The fine must be paid before Kingman reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kingman consented to the described sanctions and to the entry of findings that in sworn testimony before NASD, he

falsely testified that presented order tickets represented actual orders for stock and later admitted that he had given false testimony.

Kingman's suspension began October 21, 2002, and will conclude April 20, 2003. **(NASD Case #CMS020165)**

Ken Marks (CRD #2192323, Registered Representative, Jersey City, New Jersey) 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 eight weeks. The fine must be paid before Marks reassociates with any NASD member following the suspension. Without admitting or denying the allegations, Marks consented to the described sanctions and to the entry of findings that he sent, 19 seconds prior to the close of normal business hours, a SelectNet® order to buy shares from another firm, causing his member firm to send the order without first accessing the inside market. The findings also stated that when Marks sent the SelectNet order to purchase shares, he caused the last trade price of shares to be artificially increased, and as a result, he was able to sell the orders at an advantageous price gain.

Marks' suspension began October 21, 2002, and will conclude at the close of business December 13, 2002. **(NASD Case #CMS020162)**

Bryan Dominic Orjuela (CRD #1865605, Registered Representative, Long Beach, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Orjuela consented to the described sanction and to the entry of findings that in sworn testimony before NASD, he falsely testified that presented order tickets represented actual orders for stock and admitted that he had given false testimony.

Orjuela's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. **(NASD Case #CMS020164)**

Emerson Victor Yang (CRD #2949183, Registered Representative, West New York, New Jersey) was named as a respondent in an NASD complaint alleging that he engaged in a fraudulent scheme to profit at his customer's expense by secretly placing matched buy and sell orders in the after-hours market between the customer's account at his member firm and a personal account that he maintained secretly at another

broker/dealer. The complaint also alleges that Yang, by placing buy and sell orders in a customer account for his personal benefit rather than for the benefit of the customer, made improper use of customer securities and funds. The complaint further alleges that Yang failed to notify his member firm of his outside brokerage account, and failed to notify the broker/dealer holding the account that he was associated with another member firm. In addition, the complaint alleges that Yang failed to respond to NASD requests for information and to appear for testimony. **(NASD Case #CMS020159)**

December Actions

Frank Darnell Fisher, Jr. (CRD #2642052, Registered Representative, Vacaville, California) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for 20 business days, suspended from recommending the purchase of any penny stock to public customers for one year, and required to requalify by passing the Series 7 general securities representative exam within 90 days from his reassociation following the 20-business-day suspension. In light of the financial status of Fisher, no monetary sanctions have been imposed. Without admitting or denying the allegations, Fisher consented to the described sanctions and to the entry of findings that he recommended and sold shares of stock to public customers for which he received a bonus totaling \$96,000, and failed to disclose to customers that he was receiving a bonus and that it was in the form of a commission or sales credit amounting to 33 percent of the retail sales price. NASD also determined that Fisher knew, or should have known, based on a comparison of the amount of the bonus offered by this member firm to the retail sale prices charged to his customers, that such prices were excessive and unfair.

The findings also stated that Fisher was reckless in not knowing that these bonuses represented material financial self-interests in stock that was required to be disclosed to customers. In addition, NASD found that Fisher recommended the purchase of penny stocks to public customers, and failed to furnish customers, prior to effecting such transactions, a risk disclosure document containing information required by penny stock rules; failed to obtain from customers a manually signed and dated written statement acknowledging receipt of such risk disclosure document prior to effecting transactions; failed to disclose to customers, either orally or in writing, the inside bid and offer

quotations prior to effecting transactions, and failed to provide the same in writing at or prior to the time of any written confirmation sent to the customer pursuant to Securities and Exchange Commission (SEC) Rule 10b-10; and, prior to effecting such transactions, failed to disclose the aggregate amount of cash compensation received or to be received from any source in connection with the transaction, including separate disclosure of the source and amount of such compensation not paid by the broker or dealer, and failed to provide the same in writing at or prior to the time of any written confirmation sent to the customer pursuant to SEC rule 10b-10. Furthermore, NASD found that Fisher failed to keep and preserve records of such disclosures as required by penny stock rules.

Fisher's suspensions began November 18, 2002, and the suspension from association with any NASD member in any capacity will conclude at the close of business December 16, 2002. The suspension from recommending the purchase of any penny stock to public customers will conclude at the close of business November 17, 2003. **(NASD Case #CMS020090)**

Forge Financial Group, Inc. (CRD #100020, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through Automated Confirmation Transaction ServiceSM (ACTSM) last-sale reports of transactions in OTC Equity, NASDAQ National Market[®] (NNM[®]), NASDAQ SmallCapSM (SCSM), and Consolidated Quotation Service (CQS) securities. The findings also stated that the firm failed to designate through ACT such last-sale reports as late and incorrectly designated as ".T," through ACT, last-sale reports of transactions in OTC Equity, NNM, and SC securities executed during normal market hours. In addition, NASD found that the firm failed to report the time of execution through ACT in late, last-sale reports of transactions in NNM, SC, and eligible securities. **(NASD Case #CMS020196)**

Thomas Charles Green (CRD #228650, Registered Principal, Sherman Oaks, California) was named as a respondent in an NASD complaint alleging that he engaged in manipulative, deceptive, or fraudulent conduct by intentionally or recklessly causing to be executed and reported to The NASDAQ Stock Market, Inc., last-sale reports of transactions in a common stock,

at or near the close of the market, for the purpose of affecting the reported closing last-sale price in the security. The complaint alleges that, as a result, all of the transactions represented the closing last-sale price for the stock, and were reported at a price higher than the price of the last preceding trade in the stock reported to The NASDAQ Stock Market, Inc.; or were the only trade of the day in the stock and were reported at a price higher than the prevailing inside bid by between approximately \$0.125 and \$1 for the days upon which the transactions were effected. In addition, the complaint alleges that Green had an interest in having the stock perform well financially because of the substantial positions in the stock held by him, his member firm, and its customers. **(NASD Case #CMS020169)**

Vasiliy Kouznetsov (CRD #4163388, Registered Representative, Brooklyn, New York) 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 allegations, Kouznetsov consented to the described sanction and to the entry of findings that he failed to respond to an NASD request to appear and provide testimony. **(NASD Case #CMS020190)**

Nova Fund L.P. (CRD #35302, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to revise its written supervisory procedures concerning the Order Audit Trail SystemSM (OATSSM). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit to OATS required information during the review period. 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 the Rules of NASD concerning OATS. **(NASD Case #CMS020183)**

Stifel, Nicolaus & Company, Incorporated (CRD #793, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was

priced equal to the firm's bid or offer and the national best bid or offer in such 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 such security. **(NASD Case #CMS020185)**

Wachovia Securities, Inc. (CRD #19616, Richmond, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. **(NASD Case #CMS020202)**

Steven Gary Walder (CRD #1865103, Registered Representative, Roslyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and required to pay \$6,365, plus interest, in restitution to member firms. The fine must be paid before Walder reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Walder consented to the described sanctions and to the entry of findings that he entered priced limit orders in NASDAQ securities through his member firm's terminals in order to improve the National Best Bid or Offer (NBBO) in such securities, and after having entered such orders in electronic communication networks, Walder entered, via the Internet, orders to buy and sell shares of such securities in his personal account. The findings also stated that Walder knew that the orders placed in his personal account would be routed to market makers whose automated execution systems were programmed to buy or sell, and did buy and sell, such securities on an automated basis at prices equal to the NBBO. NASD determined that by this course of conduct Walder was able, in his personal account, to buy shares of these securities at prices that were lower, and then sell the shares at prices that were higher than he would otherwise have been able to obtain, but for his entry of the NBBO improving orders into electronic

communication networks. Furthermore, the findings stated that, within a short time after Walder received the executions of the orders that he had placed in his personal account, he cancelled 18 of the 20 priced limit orders that he had placed into the networks, thereby securing a profit of approximately \$6,365.50.

Walder's suspension began November 18, 2002, and will conclude at the close of business November 17, 2003. **(NASD Case #CMS020199)**

WIEN Securities Corporation (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$22,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance through SelectNet but, within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. The findings also stated that the firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. NASD also found that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. **(NASD Case #CMS020192)**

Wilson-Davis & Co., Inc. (CRD #3777, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$36,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale orders and transactions in certain securities and failed to maintain a written record of the affirmative determination made for such orders; failed to make an affirmative determination prior to executing such transactions; and failed to report these transactions to ACT with a short-sale modifier. NASD also found that the firm failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible

securities in a principal or original capacity, and transmitted through ACT last-sale reports of transactions in OTC Equity Securities and failed to designate through ACT such last-sale reports as reflecting a price different from the current market when the execution was based on a prior reference point in time.

The findings also stated that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. In addition, NASD found that the firm failed to contemporaneously or partially execute customer limit orders in NASDAQ securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. Furthermore, the findings stated that the firm was a market maker in securities, and an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size and failed to execute the orders upon presentment and thereby failed to honor its published quotation. NASD determined that the firm, within 90 seconds after execution, failed to transmit through ACT last-sale reports of transactions in OTC Equity securities, and failed to designate through ACT such last-sale reports as late. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning OATS (accuracy and date submitted), best execution (three-quote rule), Section 21(a) Issues (anti-coordination and anti-intimidation), and Trade Reporting. **(NASD Case #CMS020187)**

Regulatory & Compliance Alert Information

Regarding Any Items In This Publication

If you have further questions or comments, please contact either the individual listed at the conclusion of an item or Rosa A. Maymi, Editor, *Regulatory & Compliance Alert (RCA)*, 1735 K Street, NW, Washington, DC 20006-1500, (202) 728-8981.

NASD Disciplinary Actions & Histories

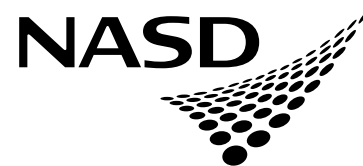
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