

Regulatory & Compliance Alert

A PUBLICATION OF NASD REGULATION, INC.

15.3 FALL 2001

Information To Help Members And Investors

In the aftermath of the tragic events of September 11, NASD's thoughts remain with the victims, their families, friends, and colleagues. As many of you may already be aware, we have issued communications for NASD members, investors, and others about a variety of pertinent topics, including important contact information, a notice about securities professionals called into active military duty, information about online regulatory reporting, and selected firm contact information for investors. We also have included an "Office Space Bulletin Board" where we post information about firms that have space to share and those firms seeking space in the New York area.

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Information To Help Members And Investors, from page 1

Below is a full listing of the information found on this special Web Page. You can access this information from the Home Pages of the NASD Regulation and NASD Web Sites at www.nasdr.com and www.nasd.com, respectively.

- ❖ Firm Contact Information for Investors & Industry
- ❖ NASD Member Disbursements Policy
- ❖ Qualification Testing and Continuing Education
- ❖ Regulatory Reporting
- ❖ Important NASDR & Nasdaq Numbers for Questions Concerning Trading
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All NASD Regulation District Offices are open and operational. Although One Liberty Plaza is temporarily closed, the New York District Office staff have relocated to:

**33 Whitehall Street
New York, NY 10004
(646) 441-3000**

If you need help or have questions, please feel free to call any of the NASD's District Offices or the NASD Call Center at (800) 334-0668. And, continue to look to www.nasdr.com and www.nasd.com for updates.

Redesigned NASD Regulation Web Site

NASD Regulation will soon launch its newly designed Web Site. The redesigned Site has an updated look, is reorganized to make information more readily accessible, and contains many user-friendly enhancements.

Since first launching *www.nasdr.com* in 1996, the Site has continued to grow; it is currently comprised of over 6,000 Web Pages, receives over 1.5 million hits per week, and has over 14,000 e-mail subscribers. It also has become NASD Regulation's primary means of publishing information.

Following are just a few of the Site's new features:

Audience Tracks—We have organized the existing information on the Site into five audience tracks—Investors, Brokers, Securities Firms, Regulators, and Media. This will help NASD Regulation's main constituents more easily find Site information most relevant to their interests. Nonetheless, anyone visiting the Site may view any of the five areas. An overall Home Page will remain, and, in addition, each of the five audience areas will have its own Foyer Page with information appropriate to that highlighted audience. For example, the Investor area of the Web Site will group all of the investor-based information currently on the Site in one place. Such information includes education and guidance for investors about margin and online accounts, as well as tips for more intelligent investing.

The Broker area of the Site similarly will group information specific to registered representatives, such as qualifications and testing information, and continuing education requirements.

Subject Organization—In addition to the audience tracks, the Home Page also displays information organized by broad subject areas. Topic groupings include Publications & Notices where you can find the *Regulatory & Compliance Alert*, *Notices to Members*, and more; Regulation Systems which lists guidance about and access to (for those entitled) various regulatory systems, such as Web CRD, OATS, Web COBRADesk, and others; and the NASD Rules section that provides access to rule filings and the NASD Manual; as well as other subject categories.

What's New & Ticker—Because NASD Regulation posts new information to the Web on a daily basis, there will be a separate Web Page on the Site to view new items. The Web Page may be sorted either by date or topic. The Site also features a 'ticker' at the top of the Home Page and the various Foyer Pages to highlight major items such as press releases, Investor/Member Alerts, and requests for comments.

Search Function—The search functionality has been enhanced not only to search more effectively for items throughout the Site, but also to search in selected sections of the Site. For example, visitors will be able to choose to search for words/phrases only within *Notices to Members* or only within Disciplinary Actions, as well as other selected areas.

New Menus—The new Web Site features a dynamic menuing system, allowing visitors to navigate the Site easily from every Web Page. You will just need to ‘mouse over’ any of the items in order to see the pop-up menus, which describe the information to be viewed, and with one click you can navigate to other information throughout the Site.

Questions about this article may be directed to Bruce Spates, NASD Regulation, Inc., at (240) 386-4962. To subscribe to weekly e-mail notifications listing “what’s new” on the NASD Regulation Web Site, just click on the text link on the left titled “Subscribe” to fill out a brief online form.

NASD Institute New Web Site & 2001 Programs

The NASD Institute for Professional Development, which provides quality educational programs for financial services industry professionals and regulators, recently launched its own separate Web Site at www.nasd-institute.com. Space is still available for a few of this year’s remaining programs; however, due to the recent tragic events, the Institute has cancelled two of its programs.

The cornerstone of the NASD Institute is a three-phase certificate program offered to regulators and industry personnel in conjunction with the Wharton School at the University of Pennsylvania in Philadelphia. Students are required to complete 120 credit hours, half of which are fulfilled on the Wharton campus. Courses focus on regulation and current issues facing the financial services industry; more specific electives cover subjects such as fixed income products, online trading, and market surveillance. The Institute also sponsors two-day symposia and week-long programs on a variety of financial services-related topics.

New Web Site

The NASD Institute’s new Web Site—www.nasd-institute.com—is a separate, new Site that includes all of the same program and enrollment information as seen previously via the NASD Regulation Web Site. The Site retains essentially the same structure so those already familiar with the Institute’s former Web Pages can easily locate information. It is also accessible, via links, from the NASD and NASD Regulation Web Sites.

Some highlights of the Web Site include:

Certificate Requirements—This Web Page outlines the Program’s requirements.

2001 Course Offerings Calendar—The calendar lists upcoming 2001 programs, and includes access to specific program information and registration forms. Programs for 2002 will be available at this Web Page late this year.

Frequently Asked Questions—This Page includes questions and answers about all aspects of the NASD Institute's programs—from program requirements to costs to logistics, and more.

Past Programs Web Page—This Page includes agendas, course descriptions, and speaker biographies from recent NASD Institute programs.

The NASD Institute will be sending monthly e-mail broadcasts to e-mail subscribers in order to highlight some of the features of the Site, as well as to communicate program information. To be placed on the e-mail notification list, click on the left-hand navigation text link titled "E-Mail Subscription" where you will be prompted to complete a brief online form.

2001 Programs

Following are the 2001 programs for which space is still available:

Two-Day Symposia

- ❖ Ethics, Georgetown University Conference Center, Washington, DC, November 2-3

This Symposium addresses a wide range of topics related to ethics in the financial services and securities industries.

Participants will discuss the role of ethics, law, and regulation within the American economic system; define ethical behavior in business; understand the relationship between ethical issues and legal issues; identify key ethical issues in the securities

industry; and more. Note: The Ethics Symposium is a required course for Certificate candidates.

Week-Long Programs

- ❖ Phase I, Wharton, Philadelphia, PA, November 4-9
- ❖ Phase II, Georgetown University Conference Center, Washington, DC, December 2-7

The Institute's week-long programs focus on specific topics related to the financial services industry, and provide advanced information designed to enable managers, compliance professionals, regulators, and others to assume greater leadership roles and responsibilities. Some of the courses to be offered include Securities Law and Regulatory Structure; Trading and Market Making; State Securities Laws; and Supervision and Supervisory Structure.

The NASD Institute also has approved courses offered by other entities that can be taken for certificate credit. These include NASD-sponsored Arbitrator Training Programs, as well as NASD Institute-approved courses conducted by Duke University and Columbia University. In addition, the Institute is offering four courses that may be taken online.

Specifics about these programs—including agendas, faculty rosters, number of credits per course, and more—may be found on the new NASD Institute Web Site (www.nasd-institute.com).

Cancellations

The two following programs have been cancelled, but will be rescheduled in 2002.

- ❖ Regulatory Inquiries Symposium, Georgetown University Conference Center, Washington, DC, October 15-16
- ❖ Phase III, Wharton, Philadelphia, PA, November 11-16

We regret any inconvenience that this may cause individuals who were planning to attend these events.

Please contact the Institute via e-mail at (nipd@nasd.com) or by phone (646-441-3054) with any questions or comments about NASD Institute programs, as well as to comment about the new Web Site.

TRADING & MARKET MAKING

MarketWatch & Market Regulation Departments

A key element to maintaining a fair and orderly market is ongoing surveillance of the marketplace. For Nasdaq® and the over-the-counter markets, this vital function is performed by two departments—the Nasdaq MarketWatch Department and the NASD Regulation Market Regulation Department. As described below, Nasdaq's MarketWatch Department conducts real-time, online surveillance and NASD Regulation's Market Regulation Department conducts post-trade surveillance. Following is a general description of the regulatory programs administered by the two departments.

MarketWatch Department

The Nasdaq MarketWatch Department was created in 1996 following a review by the Rudman Committee. Among other things, the

Rudman Committee recommended that The Nasdaq Stock Market® have the authority to conduct surveillance over the marketplace, including trading halts and real-time, trade-reporting issues. These real-time surveillance functions were previously part of the Market Regulation Department.

MarketWatch is comprised of three sections: StockWatch, TradeWatch, and Operations & Analysis. These sections work together to monitor news, market activity, and trade reporting, and to track the impact of regulatory changes or major events to the marketplace. MarketWatch strives to stay ahead of the ever-changing marketplace in order to provide a level playing field to Nasdaq investors, issuers, and market participants and protect the integrity of the marketplace.

The StockWatch Section provides real-time surveillance of issuer activity in The Nasdaq Stock Market. To accomplish this task, StockWatch continually reviews press releases issued by Nasdaq-listed companies for material news and monitors price and volume activity in Nasdaq securities on a real-time basis using automated surveillance systems. These functions combined allow StockWatch to provide an orderly market to protect investors, as well as Nasdaq-listed companies.

Nasdaq Stock Market rules require that, except in unusual circumstances, Nasdaq-listed companies promptly notify the public through the news media of any material information. These rules also require issuers to give StockWatch advance notice of news events to permit StockWatch to assess press releases for materiality and, in certain circumstances, implement temporary trading halts to allow for the even-handed dissemination of material news.

TradeWatch provides real-time monitoring of trading activity in The Nasdaq Stock Market. Using automated surveillance systems, TradeWatch reviews alerts to make certain the price and volume information reported by market participants is accurate. TradeWatch resolves locked/crossed markets in accordance with Nasdaq rules and coordinates and executes the Initial Public Offering (IPO) release process. In addition, TradeWatch monitors the opening and closing activity for securities in the Nasdaq 100, S&P 400, and S&P 500 indexes on monthly option/future expirations.

TradeWatch is also a resource for NASD market participants requesting information about applicable trade reporting rules and various NASD and SEC rules and regulations. All potentially violative activity noted by MarketWatch is immediately referred to the Market Regulation Department for further review and disposition.

The Operations & Analysis section performs research and development of real-time surveillance strategies. Operations & Analysis also conducts analysis on market trends and new market regulations and their impact on the effectiveness and efficiency of MarketWatch alert detection systems.

Market Regulation Department

Market Regulation performs automated surveillance of trading on The Nasdaq Stock Market within three operational units: Quality of Markets; Compliance and Surveillance; and Trading and Market Making Examinations. Through a variety of sophisticated online and off-line surveillance techniques and programs, the Market Regulation Department seeks to ensure the protection of investors and the preservation of the integrity and fairness of Nasdaq. If rule violations are found and documented, Market Regulation will take disciplinary action to ensure that appropriate sanctions are imposed. Market Regulation also assists the SEC and other law enforcement agencies.

The Market Regulation Department oversees and regulates all trading on Nasdaq and the over-the-counter markets. In addition to the day-to-day surveillance functions of NASD-owned trading markets, Market Regulation also regulates trading by NASD member firms in securities listed on the New York Stock Exchange (NYSE) and The American Stock Exchange (Amex). The Department utilizes state-of-the-art technology to carry out its regulatory responsibilities. This technology provides the ability to reconstruct the market utilizing trading data and quote information that is captured second-by-second throughout the trading day, and alert staff to potential violative activity.

The Department also conducts onsite inspections of the NASD's largest market-making and trading firms to assess compliance with NASD market making and trading rules, and federal securities laws. The regulatory information gathered from online surveillance, customer and broker/dealer complaints, and off-site examinations of trading activity is shared and analyzed by experts in the Department to determine whether violative activity has occurred and disciplinary action is warranted.

In addition to conducting surveillance activities, Market Regulation works closely with Nasdaq to provide interpretive guidance to NASD members, investors, and other market participants on a variety of trading issues and rules. Market Regulation also engages in preventive compliance activities that are designed to assist NASD members in complying with and understanding applicable NASD and SEC rules.

The Market Regulation and MarketWatch Departments are devoted to ensuring the protection of investors and the integrity and fairness of The Nasdaq Stock Market and other markets. The mission of both departments is to serve investors, issuers, and all market participants by being fair, efficient, and effective regulators.

Questions about this article may be directed to the Legal Section, Market Regulation Department, NASD Regulation, at (240) 386-5126, or to MarketWatch, at (800) 211-4953 or (240) 386-6049.

Reminder—SEC's ECN Amendment And Display Rule Apply To Preferred Stock

NASD Regulation is reminding members and their associated persons, particularly those that are market makers, of their order display obligations pursuant to Rules 11Ac1-1(c)(5) and 11Ac1-4 under the Securities Exchange Act of 1934 (the "ECN Amendment" and the "Display Rule," respectively) with respect to orders in preferred stock and convertible preferred stock.

The Display Rule requires that OTC market makers immediately display in their bid or offer, both the price and the full size of each customer limit order that would improve their quoted price in a particular security. In addition, OTC market makers that have a bid or offer that is equal to the national best bid or offer are obligated to reflect in their quote the size of a customer limit order that is priced equal to that bid or offer and represents more than a de minimis change in their quotation size. The SEC has stated that the size of a limit order is considered de minimis in relation to a market maker's quotation if it is less than or equal to 10 percent of the market maker's quotation size.

The ECN Amendment provides market makers an alternative to displaying limit orders in their own quotes. Specifically, under the ECN Amendment, an OTC market maker is deemed

to be in compliance with the Display Rule if it enters limit orders required to be displayed under the Display Rule into an Electronic Communications Network (ECN) that causes these orders to be publicly disseminated and provides access to such limit orders to other broker/dealers.

In 1997, the SEC's Division of Market Regulation staff granted temporary no-action relief from the obligations required by the ECN Amendment and the Display Rule for preferred stock and convertible preferred stock. NASD Regulation is reminding members that the SEC's no-action position with respect to the ECN Amendment and the Display Rule was temporary and expired on September 30, 1997. To ensure compliance, NASD Regulation recommends that members and their associated persons review their internal policies and procedures relating to trading in preferred stock and convertible preferred stock in light of the above information.

Questions about this article may be directed to the Legal Section, Market Regulation Department, NASD Regulation, at (240) 386-5126.

Municipal Fund Securities

Municipal Fund Securities,¹ a.k.a. Section 529 College Savings Plans, have investment features similar to investment company securities or variable annuity contracts. NASD Regulation reminds firms that Municipal Fund Securities are municipal securities and, accordingly, firms selling these are subject to the rules of the Municipal Securities Rulemaking Board (MSRB). The application of MSRB rules to Municipal Fund Securities transactions may impact most of those firms that are not now registered with the SEC as municipal securities dealers, that have a limited number of representatives and principals, and whose business line predominately includes the sale of retail investment products.

In view of the unique characteristics of Municipal Fund Securities, the MSRB has adopted a series of amendments to its existing municipal securities rules. Included in these MSRB rule amendments are modifications to: transaction fee assessments (A-13); professional qualification (G-3); recordkeeping (G-8); transaction reporting (G-14); customer transaction confirmation requirements (G-15); customer account transfers (G-26); new issue disclosure (G-32); and CUSIP assignment requirements (G-34). All other MSRB

rules apply to transactions in Municipal Fund Securities.

A significant MSRB rule modification involves the amended municipal securities professional qualification requirements for both representatives and principals when only effecting transactions in Municipal Fund Securities. MSRB Rule G-3 has been modified to provide that an investment company/variable contracts limited representative (Series 6) satisfies the MSRB qualification standard for sales of Municipal Fund Securities.² The MSRB Rule G-3 requirement that municipal securities transactions be supervised by a qualified municipal securities principal has been amended to provide that, until July 31, 2002, if a firm's municipal securities activities are limited exclusively to Municipal Fund Securities and the firm has fewer than 11 associated persons engaged in Municipal Fund Securities activities, the firm may fulfill its obligation to have a municipal securities principal by designating either an investment company/variable contracts limited principal (Series 26) or a general securities principal (Series 24) to act as a Municipal Fund Securities limited principal.

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1. A Municipal Fund Security is defined in MSRB Rule D-12 as a municipal security issued by an issuer that, but for the application of Section 2(b) of the Investment Company Act of 1940, would constitute an investment company within the meaning of Section 3 of the Investment Company Act. A Municipal Fund Security is, in essence, a municipal security that would qualify as a security of an investment company under the Investment Company Act if it had not been issued by a state or local governmental entity.
 2. A representative who sells both Municipal Fund Securities and other types of municipal securities must qualify as a municipal securities representative by taking and passing either the municipal securities representative qualification examination (Series 52) or the general securities registered representative examination (Series 7).

Importantly, the MSRB is advising dealers that sell Municipal Fund Securities to take all steps necessary to ensure full compliance with the requirement to have a qualified municipal securities principal (Series 53) on or after August 1, 2002.

Complete information about the MSRB rule modifications relating to Municipal Fund Securities can be found on the MSRB Web Site, www.msrb.org. Questions about Municipal Fund Securities may be directed to Malcolm Northam, Member Regulation, NASD Regulation, at (202) 728-8085.

Exchange-Traded Fund Performance

Exchange-traded funds (ETFs) are investment companies registered under the Investment Company Act of 1940 that offer shares that trade in the secondary market, including national securities exchanges. Currently, all ETFs invest in a portfolio of securities that closely tracks a specific index. Some ETFs are structured as open-end management investment companies and some are structured as unit investment trusts (UITs). Investors may purchase and redeem shares from the ETF only in large quantities (creation units), which are priced at the ETF's net asset value (NAV). Because ETFs are listed on exchanges, individual ETF shares can be bought and sold throughout the trading day at the current market price. Furthermore, ETF shares can be sold short and bought on margin.

As these products have grown in popularity, NASD member firms have sought to advertise

ETF performance. NASD Regulation notes that performance communications used prior to prospectus delivery for ETFs structured as open-end management investment companies must comply with the standardized performance requirements set forth in SEC Rule 482 under the Securities Act of 1933.¹ Rule 482 requires performance communications to include one-year, five-year, and ten-year average annualized total returns computed in accordance with a standard formula.² Under Rule 482, these standardized returns must be current to the most recently ended calendar quarter prior to submission of the communication for publication.

The formula for computing standardized returns is based on the fund's NAV as of the ending date of the performance period. Due to market action, ETF shares trading on an exchange may be available for purchase at a premium or discount to NAV. Consequently, communications that

1 For communications that are preceded or accompanied by a prospectus, the same performance standards apply pursuant to SEC Rule 34b-1 under the Investment Company Act of 1940.

2 If a fund has been in existence for less than the required time periods, then standardized average annualized total returns for the period since the fund's inception must be shown.

quote only NAV-based performance for an ETF may fail to provide the reader with a sound basis for evaluating the facts with respect to an investment in the ETF. NASD Conduct Rule 2210(d)(1)(A) requires NASD members' communications to provide such a sound basis and prohibits the omission of material information necessary to make a communication fair and not misleading.

Accordingly, NASD Regulation has taken the position that in addition to quoting standardized performance based on NAV, performance communications for ETFs must also include equally prominent disclosure of returns based on the closing market price of the shares for the same time periods as standardized returns. Such data must be accompanied by disclosure of the basis for each set of figures (e.g., "these total returns are based on the closing market price of the ETF on [date]"). The NASD Regulation staff

has discussed its position with the SEC staff, which concluded that this position is not inconsistent with the SEC's exemptive orders issued to ETFs that permit their operation.³

With respect to ETFs that are structured as UITs, the standardized performance requirements of Rule 482 do not apply. Nevertheless, compliance with Rule 2210(d)(1)(A) would require performance communications for these ETFs that are based on NAV to reflect equally prominent performance based on the closing market price of the shares for the given time period, along with appropriate disclosure of the basis for such information.

Contact the Advertising/Investment Companies Regulation Department at (240) 386-4500 with any questions regarding ETF performance.

3 In recent exemptive orders issued to ETFs, the SEC has required the prospectuses and annual reports of ETFs to show cumulative total return and average annual total return based on both NAV and market price. See, e.g., In the Matter of Barclays Global Fund Advisors, SEC Investment Company Release No. 24451 (May 12, 2000).

Web CRD CE “E-Mail” Notifications For Firms

NASD Regulation has noted a number of inadvertent Continuing Education Regulatory Element deficiencies that are caused by firms failing to access Web CRD to identify registered persons who are approaching a Regulatory Element requirement. As a compliance tool for firms, NASD Regulation initiated an automatic e-mail reminder that can be requested by members and sent from Web CRD to a designated individual at a member firm whenever the following Continuing Education-related conditions occur:

- ❖ A registered individual associated with the firm is within 90 days of the end of his/her Regulatory Element requirement window.
- ❖ A registered individual associated with the firm becomes CE Inactive.

Many firms have not taken advantage of this important compliance aid. To access this tool, a firm must be entitled and request this action via Web CRD in order to provide the name and e-mail address of its designated recipient. To initiate receipt of the e-mail notifications, the firm should log onto Web CRD and complete the following steps:

Step 1: Click on **NFI ORGANIZATION SEARCH** under ORGANIZATION-NON-FILING INFORMATION on the Site Map

Step 2: Click on **FIRM NOTIFICATION** on the navigation panel or on the footer at the bottom of the screen. NOTE: If you do not see Firm Notification on the navigation panel, you may not have authorization for this function. Please contact your firm’s Web CRD Account Administrator.

Step 3: Enter the **E-MAIL ADDRESS** of the individual who you want to receive the notifications at your firm.

Step 4: Enter the **INDIVIDUAL’S NAME**.

Step 5: Enter the **PHONE NUMBER** of the individual.

Step 6: Place a **CHECK MARK IN THE BOX** before each notification that you wish to receive. (If you would like to receive e-mail notification of all five notifications, you must check all five boxes.)

Step 7: Click on **SAVE**.

Once the firm has initiated the notifications, it will receive a separate e-mail notification each time the condition occurs, one for, and specific to, each individual.

To access the Firm Notification function in Web CRD, your firm's Account Administrator must first entitle you with the MAINTAIN FIRMS NOTIFICATION privilege. Please note that while Account Administrators can set up other individuals at their firm with the Maintain Firms Notification function, they cannot do so for themselves. Account Administrators who do not already have the Maintain Firms Notification privilege and would like to be entitled to it themselves, must fax a newly completed Account Administrator Entitlement Form (AAEF), specifically requesting the privilege, to the NASDR Entitlement Group at (240) 386-4669. The Entitlement Group will add the privilege to the Account Administrator's other Web CRD entitlements. To obtain an AAEF, call the Gateway Call Center at (301) 590-6500.

Firm E-Mail Notifications Tip: If the individual at the firm who receives the e-mail notifications is going to be out of the office for an extended period of time, due to vacation or other circumstances, there are two suggested methods to ensure continued review/analysis of the messages for firms: (1) the firm can change, at any time, the recipient of the e-mail notifications, via the Web CRD system, and should identify another individual to receive the e-mails during the interim. It would do so, following the steps previously outlined; or, (2) the individual who receives the e-mail notifications can request that the firm's technical support staff temporarily forward his/her e-mail to another individual's mailbox.

Feedback from firms that are using this Web CRD functionality has been overwhelmingly positive, especially if the firm does not access its Web CRD Queues on a daily basis. By availing themselves of the e-mail notifications, firms can now be assured of receiving these timely and important CE updates via Web CRD CE Firm Queues and e-mail. Firms are still strongly encouraged to access Web CRD and review their Firm Queues on a regular basis.

Besides the two CE e-mail notifications, there are also three other conditions for which firms can currently request to be notified via e-mail:

- ❖ The firm's financial account becomes funds deficient.
- ❖ A regulator withdraws a temporary registration for an associated individual.
- ❖ An associated individual with the firm has an Outstanding Disclosure Letter.

It is the intention of NASD Regulation, with input from the Web CRD user constituents, to expand the types of e-mail notifications for firms as Web CRD is enhanced in future releases.

Questions regarding the new firm e-mail notifications may be directed to the Gateway Call Center at (301) 590-6500.

Testing Update

Excellence In Service Award For Testing Centers

NASD Regulation 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 second quarter 2001 are:

★ Consecutive Quarter Winners

★ Decatur AL	★ Dothan AL	Goodyear AZ
★ Atascadero CA	★ Glendale CA	San Diego CA
Pueblo CO	Washington DC	★ Orlando FL
Sarasota FL	★ Homewood IL	★ Northbrook IL
★ Evansville IN	★ Ft. Wayne IN	Bossier LA
★ Waltham MA	★ Lansing MI	Livonia MI
★ Portage MI	★ Troy MI	★ Utica MI
★ Woodbury MN	★ St. Joseph MO	★ Charlotte NC
Greenville NC	★ Bismarck ND	Columbus NE
★ Omaha NE	Deptford NJ	Union NJ
★ Albuquerque NM	★ Melville NY	Wappinger's Falls NY
★ Cincinnati OH	★ Columbus OH	Columbus (Hilliard) OH
★ Cuyahoga Falls OH	★ Strongsville OH	★ Oklahoma City OK
★ Pittsburgh (N. Hills) PA	★ Sioux Falls SD	Clarksville TN
★ Fox Point WI		

Prometric Appointment Scheduling During November And December 2001

Due to an anticipated increase in volume, demand for appointments at Prometric testing centers is expected to peak during the months of November and December 2001. Prometric is taking a proactive approach to ensure that

centers have the capacity to handle the increased volume of business. However, NASD Regulation encourages candidates who will require Continuing Education and testing appointments during the November/December timeframe to schedule appointments as far in advance as possible.

Update: Testing And Continuing Education – International Delivery

NASD Regulation is now offering delivery of computerized testing and Continuing Education in the following cities:

- ❖ *Sydney, Australia*
- ❖ *Hong Kong, China*
- ❖ *Paris, France*
- ❖ *Frankfurt, Germany*
- ❖ *Tokyo, Japan*
- ❖ *Seoul, South Korea*
- ❖ *London, United Kingdom*

NOTE: Continuing Education Session 2-201 is not yet available for scheduling or delivery. We anticipate that it will be available in the near future. We are approving extensions to eligibility windows for candidates who want to schedule the 2-201 session internationally, since we are not able to accommodate them at this time.

If a Continuing Education window for Session 2-201 needs to be extended, please call NASDR Field Support Services in the U.S. at 800-999-6647, Option 1. Indicate that the Continuing Education window needs to be extended because the individual is attempting to complete the session internationally.

For detailed information about site addresses, appointment scheduling phone numbers, and policies/procedures for scheduling candidate appointments, visit the NASD Regulation Web Site at www.nasdr.com/2634.htm.

Appointment Scheduling – Best Practices – International Delivery

- ❖ Ensure that the firm has filed an application on Web CRD for the candidate to take the appropriate session, and that an eligibility window has been opened.
- ❖ When scheduling the appointment, the firm and/or candidate should be prepared to provide a US-issued Social Security Number (SS#) if a SS# has been entered into Web CRD for the candidate.

If a candidate is being scheduled into a foreign location, and has been issued a SS# that has been entered into Web CRD, then the SS# must be used as the candidate's primary ID number when scheduling the appointment.

If a candidate does not have a US-issued SS#, then the firm and/or the candidate must be prepared to provide the candidate's CRD Number for validation purposes.

- ❖ Request additional time for candidates who speak English as a second language (ESL) at the time the appointment is scheduled. Candidates who speak English as a second language will not automatically receive additional time for their session.

Upon arrival to the test center, the candidate must provide a letter from the firm verifying the ESL condition just as is required in domestic centers.

Candidate Identification Requirement – International Delivery

To gain admission to a foreign exam location, the candidate must provide two valid forms of personal identification – each with the candidate's signature, and at least one with a photo.

Examples of valid photo identification include: a valid driver's license, a military identification, a passport, or a similar type of official document issued by a government agency. The second form of identification can be anything that contains the candidate's signature: work ID, credit card, etc.

Phone Numbers For Scheduling Appointments – International Delivery

Firm registration staff and individual candidates can schedule an appointment at any foreign location by calling the toll-free number in the country in which they are located. For detailed information, visit www.nasdr.com/2634_scheduling.htm.

Note: Candidates and/or firms calling a toll-free number in Europe will be connected to the VUE call center location in Amsterdam, Netherlands. Candidates and/or firms calling an Asia Pacific toll-free number will be connected to the VUE call center located in Sydney, Australia. It is suggested that "land lines" be used to contact the VUE call centers. Candidates using cell phones will have difficulty connecting to the published numbers unless their cell phone service has "international" accessibility.

Questions about this article may be directed to Linda Christensen, Member Regulation, NASD Regulation, at (240) 386-4672.

Certification Testing & Continuing Education Delivery Location List

Current as of September 2001

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
Tucson	520-531-0431

Arkansas

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

California

Anaheim	714-637-7894
Atascadero	805-462-8308
Brea	714-255-1141
Culver City	310-337-6696
Diamond Bar	909-861-1146
Fremont	510-687-1391
Gardena	310-329-1844
Glendale	818-545-7383
Irvine	949-552-0563
La Mesa	619-668-2121
Palm Desert	760-836-1510
Piedmont	510-428-4123
Rancho Cucamonga	909-944-9763
Redlands	909-792-2145
Riverside	909-353-8600
Sacramento (Fair Oaks)	916-961-7323
San Diego	619-481-3648
San Francisco (Market St.)	415-882-1212
San Francisco (W. Portal St.)	415-681-3769
San Jose	408-257-7699
Santa Rosa	707-528-6000
Westlake Village	805-495-6367

Canada

Calgary	403-777-1365
Etobicoke, ON	416-236-2629, Ext. 221
Halifax	902-422-7323
Montreal	514-876-8818
Richmond BC	604-231-1966
Saskatoon, SK	306-978-7323
Whitby	905-404-1818
Windsor	519-974-8747
Winnipeg	204-988-5050

Colorado

Boulder	303-449-1700
Colorado Springs	719-593-1272
Denver	303-692-8745
Littleton	303-972-7276
Pueblo	719-545-0838

Connecticut

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	404-255-9957
Augusta	706-868-1888
Jonesboro	770-478-5356
Macon	912-474-5909
Marietta	770-980-1117
Savannah	912-354-2660
Valdosta	912-245-1069

Hawaii

Honolulu County	808-263-6656
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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	309-682-0825
Springfield	217-546-0381
Westchester	708-947-2800

Indiana

Evansville	812-479-6855
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

Iowa

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

Kansas

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

Kentucky

Lexington	606-268-3338
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
E. Longmeadow	413-525-4901
Lexington	781-861-0723
Waltham	781-890-0466
Worcester	508-853-7250

Michigan

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

Bloomington	952-831-7461
Duluth	218-723-1494
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	Hilliard	614-529-4232
New Jersey		Lima	419-331-7323
Deptford	609-384-4744	Mentor	440-255-0055
East Brunswick	732-390-4040	Niles	330-652-1886
Fairlawn	201-475-1670	Reynoldsburg	614-864-4090
Hamilton Township	609-631-9794	Strongsville	440-238-0530
Toms River	732-349-4609	Oklahoma	
Union	908-964-2862	Oklahoma City	405-843-8378
New Mexico		Tulsa	918-249-0820
Albuquerque	505-296-0609	Oregon	
New York		Eugene	541-485-4589
Albany	518-438-6762	Milwaukie	503-659-9575
Amherst/Buffalo	716-565-0570	Portland	503-254-2009
East Syracuse	315-433-9038	Pennsylvania	
Garden City	516-746-7367	Allentown	610-791-5320
Ithaca	607-277-4821	Clark Summit	717-586-4362
Manhasset	516-869-1238	Erie	814-864-6100
Melville	516-845-9063	Harrisburg	717-652-0646
NYC Manhattan Area	212-760-1137	Lancaster	717-391-6519
NYC Midtown Area	800-578-6273	North Wales	215-412-7822
NYC Penn Plaza (15th Fl)	800-578-6273	Philadelphia	215-238-8380
NYC Penn Plaza (17th Fl)	800-578-6273	Pittsburgh (North Hills)	412-367-4620
NYC Wall Street Area	800-578-6273	Pittsburgh (Braddock Ave.)	412-247-4463
Rego Park	718-997-6356	Plymouth Meeting	610-941-6284
Rochester	716-385-4810	York	717-755-7471
Staten Island	718-980-3079	Puerto Rico	
Vestal	607-798-1715	Guaynabo	787-706-7640
Wappingers Falls	845-298-8378	Hato Rey	787-753-6394
Watertown	315-788-2588	Rhode Island	
White Plains	914-289-0437	Cranston	401-942-8552
North Carolina		South Carolina	
Asheville	828-253-4224	Charleston	843-766-5599
Charlotte	704-364-7758	Columbia	803-354-9221
Gastonia	704-853-2038	Greenville	864-676-1506
Greensboro	336-288-1311	Irmo	803-749-0356
Greenville	252-756-0342	South Dakota	
Raleigh	919-846-1975	Sioux Falls	605-362-4875
North Dakota		Tennessee	
Bismarck	701-224-1171	Chattanooga	423-894-6249
Fargo	701-293-1234	Clarksville	931-647-2003
Ohio		Franklin	615-790-5018
Cincinnati	513-671-7030	Knoxville	423-690-0671
Columbus	614-451-4131	Madison (Nashville)	615-860-0376
Cuyahoga Falls (Akron)	330-922-5587	Memphis	901-266-4606
Dayton	937-435-8417		

Texas

Abilene	915-698-7858
Amarillo	806-359-1037
Arlington	817-572-6690
Austin	512-441-1978
Beaumont	409-899-9798
Corpus Christi	512-993-3793
Dallas	972-385-1181
El Paso	915-587-7323
Houston (Saturn Ln)	281-488-6144
Lubbock	806-785-4400
Mesquite	972-686-3310
Midland	915-520-9418
San Antonio	210-494-7263
Sugar Land	281-491-9200
Waco	254-772-2467

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
Lynchburg	804-832-0778
Mechanicsville	804-730-5844
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	304-744-4144

Wisconsin

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

Wyoming

Casper	307-235-0070
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NASD DISCIPLINARY ACTIONS

NASD Disciplinary Actions

In July and August 2001, the 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 August 2001.

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

July Actions

None.

August Actions

Preferred Trade, Inc. (CRD #10993, San Francisco, California) and Glenn Scott McCrae (CRD #2158955, Corte Madera, California) submitted an Offer of Settlement in which the firm was censured and fined \$50,000, and McCrae was censured and fined \$10,000. McCrae must pay the fine before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm and McCrae permitted an individual to act as a representative of the firm without being registered with the NASD. The findings also stated that the firm failed to report transactions in, NNM securities within 90 seconds and failed to designate those transactions as late, failed to accurately record the time of execution in order tickets and effected transactions without recording the time of execution on the order tickets, and effected transactions without making a record of the terms and conditions of the transactions. The NASD also determined that the firm effected transactions in NNM securities without making a record of the time of entry and whether the transactions were long or short, effected transactions in NNM securities without making a record of the contra side of the transactions, recorded an incorrect price or number of shares for the transactions, and failed to report the contra side of the trade to ACT. Furthermore, the NASD found that the firm effected transactions in NNM securities and failed to report the transactions. (NASD Case #C01010001)

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

July Actions

Anthony Daniel Bernardo (CRD #1233834, Registered Representative, Granada Hills, 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 90 days. Without admitting or denying the allegations, Bernardo consented to the described sanctions and to the entry of findings that he participated in private securities transactions involving purchases of notes by public customers without providing prior written or oral notification to his member firms.

Bernardo's suspension began June 18, 2001, and will conclude September 15, 2001. (NASD Case #C02010019)

Charles Thomas Bernardo, Sr. (CRD #818057, Registered Representative, Northridge, 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, Bernardo consented to the described sanction and to the entry of findings that he participated in private securities transactions involving purchases of notes by public customers without providing prior written or oral notification to his member firms. According to the findings, the private securities transactions involved purchases of notes by public customers in a securities offering. The NASD found that the customers invested a total of \$1,133,185 in the offering and Bernardo falsely represented to certain customers that he had invested in the offering when, in fact, he had not. (NASD Case #C02010018)

Michael Joseph Bernardo (CRD #2334263, Registered Representative, Granada Hills, 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 60 days. Without admitting or denying the allegations, Bernardo consented to the described sanctions and to the entry of findings that he participated in private securities transactions involving purchases of notes by public customers without providing prior written or oral notification to his member firms.

Bernardo's suspension began June 18, 2001, and will conclude August 16, 2001. (NASD Case #C02010020)

August Actions

Robert Ira Ballon (CRD #1652114, Registered Representative, Escondido, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$9,050, and suspended from association with any NASD member in any capacity for 10 business days.

Without admitting or denying the allegations, Ballon consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm prior to engaging in such activities.

Ballon's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. (NASD Case #C02010010)

Theodore Dack Fahman (CRD #2023322, Registered Principal, Fountain Valley, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from associating with any NASD member as a financial and operations principal, and suspended from association with any NASD member in any capacity for 45 business days. In light of the financial status of Fahman, a fine of \$3,500 has been imposed. Without admitting or denying the allegations, Fahman consented to the described sanctions and to the entry of findings that a former member firm, acting through Fahman, conducted a securities business while failing to maintain minimum required net capital.

Fahman's suspension began July 16, 2001, and will conclude at the close of business September 16, 2001. (NASD Case #C02010028)

Joseph Gaetano Gerace (CRD #1060223, Registered Representative, St. John's, Antigua, West Indies) was fined \$10,000 and suspended from association with any NASD member in a securities principal capacity for one year. The NAC affirmed the sanctions following appeal of an OHO decision. The sanctions were based on findings that in connection with a contingency offering, Gerace permitted his firm to fail to establish an escrow account to protect investors' funds received pursuant to the offering. Gerace also failed to sell the minimum amount of securities to bona fide public investors prior to delivering the investors' funds to issuers of the offering.

Gerace's suspension began July 2, 2001, and will conclude at the close of business June 28, 2002. (NASD Case #C02990022)

Joseph Ferrer Leomo (CRD #2898668, Registered Representative, Northridge, 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, Leomo consented to the described sanction and to the entry of findings that, without authorization from his member firm, he used the firm's letterhead and purported auspices as a knowing and willing participant in a scheme to mislead and defraud members of the public. According to the findings, through the letters, Leomo represented that a certain individual held an account with the firm, and that the firm guaranteed that sufficient funds existed in the purported customer's account to cover commitments the customer had with certain members of the public. The NASD found that Leomo's representations made through the subject letters

were false because, without limitation, the purported customer did not maintain an account with the firm as of the date the letters were sent by Leomo, and the firm never extended or guaranteed any financial commitments in favor of the non-customer to any member of the public. The NASD determined that the purpose of the letters was to induce the recipients of the letters to extend credit or to advance payments to the non-customer. The findings also stated that Leomo received \$15,000 in funds from a public customer intended for investment purposes and \$100,000 from a public customer intended to be placed in trust for the customer at his member firm, failed to apply the funds as directed by the customers, and instead, without the customers' knowledge or consent, misused the funds by wiring the funds to, and for the benefit of, a third-party corporation. The wiring of the customers' funds did not benefit the customers. (NASD Case #C02010031)

Johnny Alberto Mora (CRD #2952626, Registered Representative, Placentia, California) 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 \$95,400, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Mora consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in the securities account of a public customer, and affixed the signature of the authorized representative for a corporate customer on an offering coupon to purchase bonds and on an authorization to liquidate the customer's position in bonds, without the customer's or customer's representative's knowledge or consent. The finding also stated that Mora recommended and/or engaged in purchase transactions in the customer's account and did not have reasonable grounds for believing that these recommendations and/or resultant transactions were suitable for the customer on the basis of the customers' financial situation, investment objectives, and needs. (NASD Case #C02010030)

Shailesh Babubhai Patel (CRD #2610523, Registered Principal, Huntington Beach, California) was barred from association with any NASD member in any capacity. The NAC affirmed the sanction following appeal of an OHO decision. The sanction was based on findings that Patel received \$40,000 from public customers in order to purchase certain bonds. Patel failed to purchase the bonds or to make any other investment on their behalf. (NASD Case #C02990052)

David Vazquez (CRD #2620841, Registered Principal, Glendale, 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, Vazquez consented to the described sanction and to the entry of findings that he embezzled \$210,000 in funds from his member firm by improperly obtaining checks made payable to a mutual fund account that he controlled, causing the checks to be deposited into the mutual fund account, and subsequently using them for his own benefit. Vazquez also failed to

respond to NASD requests for information. (NASD Case #C02010029)

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

District 3A - Denver

July Actions

None.

August Actions

Saleem Barkat (CRD #1571045, Registered Representative, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,800, suspended from association with any NASD member in any capacity for one month, and required to demonstrate that he has paid \$7,200 in restitution. Without admitting or denying the allegations, Barkat consented to the described sanctions and to the entry of findings that he participated in private securities transactions for compensation and failed to provide written notification to, or obtain written approval from, his member firm.

Barkat's suspension began August 6, 2001, and will conclude at the close of business September 5, 2001. (NASD Case #C3A010022)

Harrison Douglas, Inc. (CRD #16515, Denver, Colorado) and Douglas Wayne Schriener (CRD #1140409, Registered Principal, Aurora, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,500, jointly and severally. The firm was also fined an additional \$7,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm sold shares of an IPO to residents of Missouri when the IPO was not registered for sale in Missouri. The NASD found that the firm, acting through Schriener, completed a post-IPO questionnaire for the lead underwriter that failed to disclose that shares sold to Missouri residents were inaccurately included as sales to Colorado residents. The findings also stated that the firm and Schriener failed to promptly file an amended Form BD and amended Form U-4s to reflect a final disciplinary action and bankruptcies. Furthermore, the NASD found that the firm, acting through Schriener, had no written needs analysis or written training plan with respect to the Firm Element of Continuing Education—Membership and Registration Rule. (NASD Case #C3A010023)

John Lee McSwain (CRD #1405138, Registered Principal, Shelby, North Carolina) 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 demonstrate that he has paid \$25,402.99 in

disgorgement to public customers. Proof of payment of the disgorgement must be provided before reassociating with any NASD member. Without admitting or denying the allegations, McSwain consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide written notification to, or obtain written approval from, his member firm. The NASD also found that McSwain received compensation for participating in financial activities for an entity without providing his member firm with prompt written notice of his outside business activity. (NASD Case #C3A010021)

O. Jennings Wilkinson, IV (CRD #2772955, Registered Representative, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$17,500, suspended from association with any NASD member in any capacity for two years, and ordered to disgorge \$6,233 to public customers. In light of the financial status of Wilkinson, a fine of \$17,500 was imposed. The fine payment and satisfactory proof of payment of the disgorgement must be provided before Wilkinson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wilkinson consented to the described sanctions and to the entry of findings that he exercised discretion in the accounts of public customers without their prior written authorization and the prior written approval from his member firm to exercise discretion. The findings also stated that Wilkinson engaged in excessive trading in the account of public customers. In addition, the NASD found that Wilkinson engaged in outside business activities and failed to give prompt written notice to his member firm of his activities.

Wilkinson's suspension began July 16, 2001, and will conclude at the close of business July 15, 2003. (NASD Case #C3A010019)

District 3B - Seattle

July Actions

National Securities Corporation (CRD #7569, Seattle, Washington) 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 it failed to report any applicable options positions to the NASD, failed to update its quotes to reflect the customers' limit orders, and incorrectly reported short positions to the NASD. The findings also stated that the firm executed short sale orders in certain securities and failed to make an affirmative determination prior to executing such transactions. The NASD also found that the firm's supervisory system failed to include adequate written supervisory procedures to assure compliance with applicable securities laws and regulations concerning purchases of "B" share mutual funds. In addition, the NASD found that the firm failed to create and implement a supervisory system reasonably

designed to achieve compliance with applicable securities laws and regulations regarding the report of large option positions, the detection of errors or omissions of required quote updates, short interest reporting, and insuring that an affirmative determination is made prior to effecting short sales. (NASD Case #C3B010011)

August Actions

Henry Dwayne Bumpers (CRD #2830074, Registered Representative, Tigard, Oregon) 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, Bumpers consented to the described sanction and to the entry of findings that he engaged in securities transactions in the accounts of public customers without the knowledge or consent of the customers and in the absence of written or oral authorization to exercise discretion in the accounts. The findings also stated that Bumpers, pursuant to verbal authority, exercised discretion to purchase securities for the accounts of public customers without prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm. (NASD Case #C3B000016)

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

July Actions

None.

August Actions

Gregory Morton Jones, Sr. (CRD #1672249, 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, Jones consented to the described sanctions and to the entry of findings that he received checks totaling \$95,000 intended for the purchase of a fixed annuity and a variable universal life insurance policy. The NASD found that Jones endorsed the checks, purchased a fixed annuity for \$75,000 and a variable universal life insurance policy for \$10,000, and did not invest the remaining \$10,000 as intended by the customer nor promptly return the remaining funds to the customer. The NASD also found that Jones failed to promptly invest the \$75,000 in the fixed annuity as intended by the customer, and instead, held the funds in his account. (NASD Case #C04010023)

Michael Patrick Kaselnak (CRD #2003171, Registered Representative, Rochester, Minnesota) 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, Kaselnak consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers without providing prior written notice to his member firm.

Kaselnak's suspension began August 6, 2001, and will conclude at the close of business September 4, 2001. (NASD Case #C04010024)

Michelle Marie Niska (CRD #2040226, Associated Person, Maple Grove, Minnesota) 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, Niska consented to the described sanction and to the entry of findings that she directed a \$498,672.24 wire transfer from her member firm's general cash account to an account she controlled and converted the funds to her own use and benefit. The NASD also found that Niska affixed the signatures of designated authorized supervisors to wire transfers and failed to respond to NASD requests for information. (NASD Case #C04010025)

R.J. Steichen & Company, n/k/a Miller Johnson Steichen Kinnard, Inc. (CRD #694, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$19,505. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it permitted individuals to conduct a securities business and to act in registered capacities when their registrations had lapsed for non-compliance with the Regulatory Element of the Continuing Education Requirement. (NASD Case #C04010027)

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

July Actions

None.

August Actions

Sara Ellen Kocher (CRD #55676, Registered Representative, Boca Raton, Florida) 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 six weeks. Without admitting or denying the allegations, Kocher consented to the described sanctions and to the entry of findings that she signed the name of a public customer to a letter of instructions to a mutual fund distributor without the knowledge or consent of the customer. The findings also stated that Kocher signed the names of co-trustees of an irrevocable family trust to a form confirming an authorization of the liquidation of mutual fund shares without their knowledge or consent.

Kocher's suspension began August 6, 2001, and will conclude September 16, 2001. (NASD Case #C05010029)

Tam Thanh Le (CRD #3132393, Registered Representative, Balch Springs, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Le received a \$2,000 check from a public customer for the purchase of a variable annuity and, without the customer's knowledge or consent, applied the funds to pay premiums on other customers' policies. The findings also stated that Le failed to respond to NASD requests for information. (NASD Case #C05010002)

Donald Francis Reagan (CRD #1600836, Registered Principal, Cape Coral, Florida) was fined \$10,000 and suspended from association with any NASD member in any capacity for 90 business days for engaging in private securities transactions and barred from association with any NASD member in any capacity for failing to respond to NASD requests for information. The fine must be paid before Reagan seeks to reenter the securities industry. The sanctions are based on findings that Reagan engaged in private securities transactions for compensation and failed to provide his member firm with prior written notice describing in detail the proposed transactions, his role therein, and stating whether he had received, or might receive, compensation, and failed to receive his member firm's prior written permission. The findings also stated that Reagan failed to respond to NASD requests for information.

Reagan's bar became effective June 15, 2001. (NASD Case #C05010008)

Charles Keith Waddell (CRD #2347936, Registered Representative, Oklahoma City, Oklahoma) was fined \$40,000, suspended from association with any NASD member in any capacity for two years, and ordered to pay \$100,000, plus interest, in restitution to a public customer. Waddell is also subject to special supervision for a minimum of two years with any NASD member with which he becomes associated following his suspension. The sanctions are based on findings that Waddell made untrue statements of material fact to a public customer in connection with a sale of securities and transferred a bond to an individual without the explicit permission of the public customer who was the beneficiary of the bond. The findings also stated that Waddell engaged in private securities transactions for compensation without prior written notice to his member firm describing in detail the proposed transactions, his proposed role therein, and stating whether he had received, or might receive, selling compensation in connection with the transactions.

Waddell's suspension began July 2, 2001, and will conclude at the close of business July 1, 2003. (NASD Case #C05000021)

District 6 - Texas

July Actions

None.

August Actions

Tuan Ba Le, a/k/a Jason Le (CRD #3079382, Registered Representative, Grand Prairie, Texas) was named as a respondent in an NASD complaint alleging that he made unauthorized withdrawals totaling \$176,000 from a public customer's savings account by signing the customer's name on a withdrawal slip and used the proceeds for his own use and benefit without the authorization, knowledge, or consent of the customer. (NASD Case #C06010017)

Danny Ray Parker (CRD #1921892, Registered Representative, Porter, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Parker received a \$7,000 check from an insurance customer intended as an insurance policy premium payment, entered his own name as the payee on the check, endorsed the check, and failed to apply the funds to the insurance policy. Parker also failed to respond to NASD requests for information. (NASD Case #C06010001)

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

July Actions

Paul Louis Anderson (CRD #2837647, Registered Representative, Rock Hill, South Carolina) was barred from association with any NASD member in any capacity and ordered to pay \$9,000, plus interest, in restitution to his former employer. The sanctions were based on findings that Anderson credited his personal bank account \$9,000 using his employment position at the bank and his work computer, and withdrew the \$9,000 credited to his account through a series of withdrawals from automated teller machines. Anderson also failed to respond to an NASD request for information. (NASD Case #C07010002)

August Actions

William Keith Bunn (CRD #35193, Registered Supervisor, Deerfield Beach, Florida) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Bunn, no monetary sanction has been imposed. Without admitting or denying the allegations, Bunn consented to the described sanction and to the entry of findings that he failed to disclose to his member firm, orally or in writing, his efforts to compensate a public customer for losses in her account.

Bunn's suspension began August 6, 2001, and will conclude at the close of business September 4, 2001. (NASD Case #C07010023)

Mark Joseph Chavez (CRD #2411119, Registered Principal, Boca Raton, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Chavez failed to respond to NASD requests for information. (NASD Case #C07000084)

Sean Patrick Dugan (CRD #1734681, Registered Representative, Davie, 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, Dugan consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm to participate in such transactions. (NASD Case #C07010049)

Glen Evan Horecky (CRD #1912346, Registered Representative, Delray Beach, Florida) 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, Horecky consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving prior written notice to his member firm.

Horecky's suspension began July 16, 2001, and will conclude at the close of business August 14, 2001. (NASD Case #C07010041)

Emmanuel George Kavekos (CRD #2794227, Registered Representative, West Palm Beach, Florida) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts of public customers. The complaint further alleges that Kavekos made baseless price predictions to public customers in order to induce the customers to purchase securities and failed to respond to NASD requests for information. (NASD Case #C07010045)

Erik Robert Olufson (CRD #2875845, Registered Representative, Miami, Florida) was named as a respondent in an NASD complaint alleging that he engaged in widespread, fraudulent sales practices by luring public customers into highly speculative investments in risky securities, without providing adequate and accurate information regarding the securities he recommended, particularly as to the risks of the investments, and omitted materially negative or cautionary information about the security being recommended. The complaint further alleges that Olufson acted as a registered representative without being registered with the NASD and failed to appear for testimony before the NASD. (NASD Case #C07010039)

Anthony Joseph Peluso (CRD #2314102, Registered Representative, Deerfield Beach, 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, Peluso consented to the described sanction and to the entry of

findings that he used high-pressure sales tactics and knowingly made to customers numerous baseless predictions of substantial price increases and material misrepresentations of fact in connection with his solicitation of orders to purchase low-priced speculative securities and other securities. (NASD Case #C07010043)

Gary Ronald Putti (CRD #2630113, Registered Principal, Miami, Florida) was named as a respondent in an NASD complaint alleging that he received a \$2,000 check from an individual intended as a loan and failed to repay \$1,000 of the funds. The complaint also alleges that Putti failed to respond to NASD requests for information. (NASD Case #C07010042)

Michael Victor Rozes (CRD #839852, Registered Representative, High Point, North Carolina) 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. Rozes 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, Rozes consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on a Form U-4.

Rozes' suspension began July 16, 2001, and will conclude at the close of business January 15, 2002. (NASD Case #C07010040)

Trevor Douglas Seffren (CRD #2410677, Registered Representative, Aventura, Florida) was fined \$20,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam as a general securities representative before acting in any capacity requiring that registration. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Seffren failed to respond timely to NASD requests for information.

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

Haskell Paul Stone, III (CRD #3035254, Registered Representative, Stuart, Florida) was named as a respondent in an NASD complaint alleging that he engaged in widespread, fraudulent sales practices and lured customers into highly speculative investments in risky securities by making misrepresentations and omissions to the customers, including baseless price predictions, and provided false statements to customers without disclosing adequate and accurate information regarding the securities without having a reasonable basis for such representations. The complaint also alleges that Stone recommended and implemented a course of trading in a customer's account that was unsuitable based upon the customer's lack of investment experience and the use of borrowed funds. (NASD Case #C07010051)

Matthew David Stone (CRD #2922068, Registered Representative, Stuart, Florida) was named as a respondent in an NASD complaint alleging that he engaged in widespread, fraudulent sales practices and lured customers into highly speculative investments in risky securities by making misrepresentations and omissions to the customers, by making baseless price predictions, providing false statements to customers without providing adequate and accurate information regarding the securities, and without having a reasonable basis for such representations. The complaint further alleges that Stone failed to follow customers' instructions to sell stock and engaged in unauthorized trading in a customer's account. (NASD Case #C07010050)

Sean Patrick Tenney (CRD #3055872, Registered Representative, Orlando, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Tenney forged a public customer's signature on a Mutual Fund and Certificate Redemption, Exchange, and/or Transfer of Investment form and a Financial Advisory Service Agreement form without the customer's knowledge or authorization. Tenney also failed to respond to NASD requests for information. (NASD Case #C07010012)

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

July Actions

Bestvest Investments, Ltd. (CRD #40302, Harper Woods, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$8,000, and fined \$6,000, jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities when its debt-to-debt-equity ratio exceeded 70 percent. The findings also stated that the firm failed to prepare monthly net capital computations, failed to prepare accurate trial balances and net capital computations, and filed inaccurate FOCUS Part IIA reports with the NASD. Furthermore, the NASD determined that the firm failed to establish and maintain a written needs analysis and training plan to provide a continuing and current education program for its registered persons to enhance their securities knowledge, skill, and professionalism for the Firm Element of the NASD's Continuing Education Rules, and failed to administer a continuing education program and maintain records documenting the contents and completion of the programs by its registered persons. (NASD Case #C8A010035)

August Actions

Christian Weekley Baker (CRD #1639374, Registered Representative, St. Louis, Missouri) was named as a respondent in an NASD complaint alleging that she received \$50,000 in cash from a public customer and mishandled customer funds by retaining possession of the currency, not returning the currency to the customer, and not assisting the customer by promptly depositing the full amount of the currency to the customer's investment account. The complaint further alleges that Baker engaged in a scheme to assist the customer in evading the federal cash transaction reporting requirements by failing to file a currency transaction report disclosing her receipt of \$50,000 in cash from the customer and depositing funds into the customer's accounts in increments of amounts less than \$3,000. Moreover, the complaint alleges that Baker failed to inform her member firm of her receipt of the cash, causing the failure of the firm to file a currency transaction report with the Internal Revenue Service that requires disclosure of deposits of \$10,000 or more. Furthermore, as a result of such actions, the NASD alleges that Baker caused her member to fail to record on its books and records the receipt of cash from a public customer. (NASD Case #C8A010048)

Richard Alan Blake (CRD #813822, Registered Representative, DeKalb, Illinois), Frank Thomas Devine (CRD #2035363, Registered Representative, Oswego, Illinois), and Timothy James Fergus (CRD #1995006, Registered Representative, Lisle, Illinois). Blake was fined \$35,000, suspended from association with any NASD member in any capacity for 180 days, and required to requalify by exam as an investment company and variable contracts products representative. Devine was fined \$34,825.42, suspended from association with any NASD member in any capacity for 90 days, and required to requalify by exam as an investment company and variable contracts product representative. Fergus was fined \$8,000, suspended from association with any NASD member in any capacity for 60 days, and required to requalify by exam as an investment company and variable contracts product representative. The NAC imposed the sanctions following a call for review of an OHO decision. The sanctions were based on findings that Blake, Devine, and Fergus sold securities in the form of promissory notes without providing prior written notice to, and receiving approval from, their member firm.

Devine has appealed this action to the SEC and the sanctions against him are not in effect pending consideration of the appeal. Fergus' suspension began July 2, 2001, and will conclude at the close of business August 30, 2001. Blake's suspension began July 2, 2001, and will conclude at the close of business December 31, 2001. (NASD Cases #C8A990025, C8A990026, and C8A990027)

Robert Orville Boettcher (CRD #1839053, Registered Representative, Elgin, Illinois) 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 provide proof of payment of restitution for commissions earned totaling \$8,183, plus interest, to

customers with any submission to re-enter the securities industry. Without admitting or denying the allegations, Boettcher consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm prior to engaging in such activities. (NASD Case #C8A010031)

Thomas William Galuski (CRD #2005707, Registered Representative, Chicago, Illinois) was named as a respondent in an NASD complaint alleging that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm prior to engaging in such activities. The complaint also alleges that Galuski issued false account documents to customers regarding investments in their accounts. (NASD Case #C8A010040)

Hold Brothers On-Line Investment Services, Inc., f/k/a, On-Line Investment Services (CRD #36816, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$41,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it forwarded commission checks to an individual who was not registered with the firm in any capacity and who performed various services for the firm. The findings also stated that the firm prepared and maintained a press release on its Web page that contained an exaggerated, unwarranted, and misleading statement regarding its day traders' success rate without any documentation to support the statement. The NASD also determined that the firm failed to report sell transactions as short sales and failed to supervise the activities of an individual adequately and properly in that the individual was given checks based on the commissions earned while not being required to become registered with the firm. (NASD Case #C8A010034)

James Howard Jones (CRD #731895, Registered Representative, Anderson, Indiana) was named as a respondent in an NASD complaint alleging that he received from a public customer a \$5,735 check to purchase shares in a variable annuity product, failed to apply the funds as directed, and without the knowledge and authorization of the customer, used the funds for his own benefit or for some purpose other than the benefit of the customer. The complaint further alleges Jones issued a false document to the customer purporting that the funds had been sent to and deposited into the customer's account, and falsely represented to the customer that he had created a "side fund" for the customer when, in fact, no such fund ever existed. (NASD Case #C8A010037)

Michael Kevin Nickel (CRD #3099334, Registered Representative, Schofield, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, suspended from association with any NASD member in any capacity for six months, and ordered to disgorge \$20,184 in commissions. Payment of the fine and proof of disgorgement shall be a prerequisite to reassociation with a member firm following the suspension or to any such

application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Nickel consented to the described sanctions and to the entry of findings that he participated, for compensation, in private securities transactions and failed to give written notice of his intention to engage in such activities to his member firm, and failed to receive written approval from the firm prior to engaging in such activities. The findings also stated that Nickel participated in the sale of securities in the form of promissory notes and failed to properly register and/or qualify in the appropriate capacity with his member firm prior to engaging in the securities transactions.

Nickel's suspension began August 6, 2001, and will conclude at the close of business February 5, 2002. (NASD Case #C8A010036)

Protective Group Securities Corporation (CRD #6757, Minneapolis, Minnesota) and Michael Frederick Flannigan (CRD #1135700, Registered Principal, Excelsior, Minnesota) were fined \$25,000, jointly and severally, and Flannigan was barred from association with any NASD member in any supervisory capacity. The National Adjudicatory Council (NAC) affirmed the sanctions following appeal of an Officer of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm, acting through Flannigan, allowed individuals registered with another member firm and not registered with Protective to engage in Protective's securities business and exercised discretionary authority for customer accounts by following directions from registered representatives of another member firm with respect to trading in Protective's customer accounts.

On July 2, 2001, Flannigan appealed the NAC's decision to the Securities and Exchange Commission and requested that the Commission stay imposition of the sanctions imposed and publication of the NAC's decision. The SEC denied the stay request. The supervisory bar therefore was effective as of the issuance of the NAC's decision on June 4, 2001. (NASD Case #C8A980097)

Mark Edwin Rothe (CRD #4279508, Associated Person, Godfrey, 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 month. The fine must be paid before Rothe reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rothe consented to the described sanctions and to the entry of findings that he completed, signed, and submitted to the NASD a Form U-4 that failed to disclose a material fact.

Rothe's suspension began August 6, 2001, and will conclude at the close of business September 5, 2001. (NASD Case #C8A010038)

District 8B - Cleveland

July Actions

Robert Lester Cawman (CRD #2456254, Registered Representative, Union, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,000 and suspended from association with any NASD member in any capacity for three months. Cawman also agreed to an undertaking that he will not be associated with any NASD member for one year following the acceptance of the AWC that is unwilling or unable to provide special supervision under terms and conditions substantially identical to those contained in a Special Supervision Agreement entered into by him and his previous member firm. In light of the financial status of Cawman, a fine of \$2,000 was imposed. Without admitting or denying the allegations, Cawman 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, his role therein, and to receive permission from the firm to engage in the transactions.

Cawman's suspension is deemed to have been served based upon a three-month suspension imposed by the Ohio Division of Securities. (NASD Case #C8B010010)

August Actions

Patrick Andrew Brady (CRD #2536672, Registered Representative, Toledo, Ohio) was fined \$42,943.31 and suspended from association with any NASD member in any capacity for one year for engaging in private securities transactions, and barred from association with any NASD member in any capacity for failure to respond. The fine is due and payable prior to Brady's re-entry into the securities business. The sanctions are based on findings that Brady engaged in private securities transactions for compensation without giving his member firm prior written notice and without receiving prior written approval. The findings also stated that Brady failed to respond to NASD requests for information.

Brady's bar became effective July 16, 2001. (NASD Case #C8B000013)

Ni Securities Corp. (CRD #30444, Akron, Ohio) and Michael Edmond Zulick (CRD #1834341, Registered Principal, Akron, Ohio) were fined \$10,747.67, jointly and severally. Zulick was also fined an additional \$1,500. The sanctions were based on findings that the firm permitted Zulick to act in a capacity requiring registration when his registration had been deemed inactive pending completion of the Continuing Education Regulatory Element requirements. The findings also stated that Zulick executed securities transactions during a period of non-compliance with the Continuing Education Regulatory Element requirements. (NASD Case #C8B010004)

Michael Edmond Zulick (CRD #1834341, Registered Principal, Akron, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Zulick took checks from his member firm without firm authorization or notification, deposited the funds in his personal checking account, and used the funds to pay for personal expenses, thereby converting the funds for his own use and benefit. (NASD Case #C8B000001)

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

District 9A - Philadelphia

July Actions

None.

August Actions

John Joseph Conte (CRD #2528692, Registered Representative, Norristown, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Conte exercised discretion in the account of a public customer without prior written authorization from the customer and prior written acceptance of the account as discretionary from his member firm. The findings also stated that Conte failed to respond to NASD requests for information. (NASD Case #C9A000046)

Charles William Herbert (CRD #4000097, Registered Representative, Philadelphia, 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, Herbert consented to the described sanction and to the entry of findings that he converted approximately \$50,000 from a bank and its customers by effecting unauthorized transfers of funds from a bank operating account to a personal account and using the funds for his own purposes. (NASD Case #C9A010018)

Bryan Gregory Holland (CRD #2668952, Registered Representative, Pittsburgh, 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, Holland consented to the described sanction and to the entry of findings that he received approximately \$65,000 from a public customer to invest in a non-profit corporation and, rather than investing the funds, he converted the funds to his own use and benefit without the customer's knowledge or consent. (NASD Case #C9A010020)

Robert Michael Mark (CRD #1053836, Registered Representative, Weirton, 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, Mark consented to the described sanction and to the entry of findings that he converted approximately \$10,000 from a public customer by obtaining loans against an insurance policy in the customer's name and then using the funds for his own purposes without the customer's knowledge or consent. (NASD Case #C9A010021)

Pauline Teresa Serfass (CRD #1561590, Registered Principal, Quakertown, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Serfass consented to the described sanctions and to the entry of findings that, as the representative of record for a variable annuity owned by a public customer, she gave instructions to the company that had issued the annuity that caused changes to be made in how the money in the annuity was invested. The findings also stated that Serfass caused all shares held in mutual funds to be sold and the money re-invested in different mutual funds. In addition, the NASD found that Serfass gave instructions whereby the total dollar value of the annuity as of that date was re-allocated equally among the sub-accounts, resulting in a partial liquidation of the shares held in the holdover mutual fund. Furthermore, the NASD found that the changes were made without the customer's knowledge or authorization.

Serfass' suspension began July 16, 2001, and will conclude at the close of business August 14, 2001. (NASD Case #C9A010017)

District 9B - New Jersey

July Actions

None.

August Actions

Stephen J. Carrione (CRD #1603335, Registered Representative, Bloomfield, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Carrione consented to the described sanctions and to the entry of findings that he exercised control over the joint account of public customers and effected numerous securities transactions in the account in a manner that was inconsistent with the customers' investment objectives. The findings also stated that Carrione, pursuant to verbal authority, exercised discretion in the joint accounts of public customers without having obtained prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm.

Carrione's suspension began July 16, 2001, and will conclude at the close of business August 14, 2001. (NASD Case #C9B010050)

Edwin Arthur Dolan, Jr. (CRD #69506, Registered Principal, Parsippany, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$8,500, jointly and severally, and suspended from association with any NASD member in any principal capacity for 10 days. Without admitting or denying the allegations, Dolan consented to the described sanctions and to the entry or findings that a member firm, acting through Dolan, permitted an individual to act as a general securities representative and equity trader while failing to have registered in such capacities. The findings also stated that a member firm, acting through Dolan, failed to maintain written supervisory procedures mandating that the firm complete an annual training needs analysis, develop a written training plan, and implement the plan to achieve compliance with the Firm Element of the NASD Continuing Education Rules. The findings also stated that a member firm, acting through Dolan, failed to complete an annual training needs analysis, failed to develop a written training plan, and failed to implement a written training plan to achieve compliance with the Firm Element of the Continuing Education Rules.

Dolan's suspension will begin August 20, 2001, and will conclude at the close of business August 29, 2001. (NASD Case #C9B010057)

Richard Thomas Geck (CRD #2402873, Registered Principal, Toms River, 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, Geck consented to the described sanction and to the entry of findings that he converted at least \$44,040.05 in customer funds and used the funds for his own use and benefit without the customers' knowledge or consent. (NASD Case #C9B010059)

Darren Scott Goldberg (CRD #2857732, Registered Representative, Suffern, 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 10 business days. The fine must be paid before Goldberg reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Goldberg consented to the described sanctions and to the entry of findings that he signed a customer's name on a letter of authorization, at the request of a registered representative, without the customer's consent or authority to do so.

Goldberg's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. (NASD Case #C9B010055)

William Leslie Hudley (CRD #1804457, Registered Representative, Montclair, 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, Hudley consented to the described sanctions and to the entry of findings that he converted at least \$161,000 from public customer accounts and used the funds for his own use and benefit without the customers' knowledge or consent. The findings also stated that Hudley failed to respond to NASD requests for information. (NASD Case #C9B010058)

Jeffrey James Lenoy (CRD #2932231, Registered Representative, Hawthorne, 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 10 business days. The sanctions were based on findings that Lenoy asked another registered representative to sign a customer's name on a letter of authorization without having obtained the customer's consent or authority to do so.

Lenoy's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. (NASD Case #C9B010056)

Pruco Securities (CRD #5685, Newark, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to file with the NASD customer complaints that were required to be reported in a timely manner. According to the findings, approximately 25 of these customer complaints incorrectly identified the dates on which the firm initially became aware of the subject complaints. The findings also stated that the firm failed to establish, maintain, and enforce procedures (including written supervisory procedures) reasonably designed to ensure compliance with the NASD customer-complaint-reporting requirement. (NASD Case #C9B010051)

Robert Stack, Jr. (CRD #1677025, Registered Representative, Redbank, New Jersey) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for 15 business days. In light of the financial status of Stack, a fine of \$25,000, of which \$20,000 represents disgorgement, has been imposed. Without admitting or denying the allegations, Stack consented to the described sanctions and to the entry of findings that he performed duties as a registered person for his member firm while his registration status was inactive based on his failure to complete the Regulatory Element of the NASD's Continuing Education Program.

Stack's suspension will begin August 20, 2001, and will conclude at the close of business September 10, 2001. (NASD Case #C9B000017)

Shiewi Xu (CRD #2731114, Registered Representative, Edison, 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 10 business days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Xu consented to the described sanctions and to the entry of findings that he placed advertisements in a newspaper, soliciting customers to join an investment club without the approval of his member firm. The findings also stated that the advertisements contained exaggerated and unwarranted statements and claims, and failed to provide a sound basis for evaluating the product being offered rendering them misleading.

Xu's suspension began August 6, 2001, and will conclude at the close of business August 17, 2001. (NASD Case #C9B010053)

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

July Actions

Andrew Garrett, Inc. (CRD #36250, New York, New York) and Revan Richard Schwartz (CRD #2748110, Registered Principal, Howard Beach, New York) 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, acting through Schwartz, served as placement agent for a best efforts "part-or-none" private placement offering and, during the contingency period, failed to ensure that the money or other consideration received was promptly deposited in a separate bank account, as agent or trustee for the persons who had the beneficial interests therein, until it could be determined whether the part or none contingency would be satisfied and the funds were either returned to the entitled persons or released to the issuer. The findings also stated that the respondents failed to ensure that all funds were promptly transmitted to a bank that had agreed in writing to hold all such funds in escrow and to transmit or return the funds directly to the entitled persons when the contingency had occurred. (NASD Case #C10010071)

Assadour Michael Ashdjian (CRD #3170342, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ashdjian willfully failed to amend a Form U-4 to disclose a material fact. (NASD Case #C10010010)

Henri Michel Bise (CRD #2949724, Registered Representative, Rio de Janeiro, Brazil) 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, Bise consented to the described sanctions and to the entry of findings that he

exercised discretionary authority in the account of a public customer without the customer's prior written authorization and the prior written acceptance of the account as discretionary by his member firm.

Bise's suspension began June 18, 2001, and concluded at the close of business June 29, 2001. (NASD Case #C10010066)

Michael Paul Cilmi (CRD #1289290, Registered Principal, South Cairo, New York) was barred from association with any NASD member in any capacity and ordered to pay \$14,559.08, plus interest, in restitution to public customers. The sanctions were based on findings that Cilmi effected unauthorized transactions in the accounts of public customers. (NASD Case #C10000220)

Coleman & Company Securities, Inc. (CRD #1486, New York, New York) and Mark Bennett Haiken (CRD #233565, Registered Principal, Great Neck, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$7,500, jointly and severally. The firm was fined an additional \$6,864, which includes the disgorgement of \$3,864 in commissions earned. Haiken was suspended from association with any NASD member in a financial and operations principal 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 the firm, acting through Haiken, failed to maintain its minimum required net capital while conducting a securities business. The findings also stated that the firm permitted individuals employed by the firm to act in a registered capacity while they had an inactive registration status as a result of their failure to timely complete the Regulatory Element of the NASD's Continuing Education Program.

Haiken's suspension began June 18, 2001, and concluded at the close of business June 22, 2001. (NASD Case #C10010059)

Patterson Travis, Inc. (CRD #16540, Englewood, Colorado) and David Thomas Travis (CRD #448950, Registered Principal, Aurora, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. The firm was fined an additional \$4,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm incorrectly reported to Automated Confirmation Transaction ServicesSM (ACTSM) that it was acting in a principal capacity for over-the-counter bulletin board (OTCBB) securities transactions when, in fact, it was acting in an agency capacity for its customers. The findings also stated that the firm failed to state the reported price and markup/markdown on customer confirmations. In addition, the NASD found that the firm, acting through Travis, failed to report quarterly to the NASD customer complaints that it received, including one that alleged the misappropriation of funds or securities. (NASD Case #C10010064)

Tarpon Scurry Investments, Inc. (CRD #34635, Hoboken, New Jersey) and Derek Chester Ferguson (CRD #3008808, Associated Person, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$13,000 and Ferguson was censured and fined \$42,649.30 which includes the disgorgement of \$41,649.30 in unlawful profits. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm failed to adequately establish and enforce written procedures to supervise its underwriting business and insure compliance with NASD rules and regulations, in that the firm allowed a non-controlling owner of the firm to participate in the initial public offering (IPO) of a security when the firm was a selling group member of the IPO and the IPO went "hot." The findings also stated that the firm executed limit order transactions outside the national best bid or offer, and failed to immediately execute limit order transactions when they were received even though the inside bid/ask price was at or better than the limit order price at that time. The NASD also found that the firm received limit orders to buy a security and failed to reflect the orders in its quotes. Furthermore, the NASD found that the firm received a customer limit order, changed its bid, and failed to reflect the earlier open customer limit order. In addition, the findings stated that Ferguson participated in an IPO that went "hot" and profited \$41,649.30 when he sold the stock in the aftermarket. (NASD Case #C10010075)

August Actions

Robert Stephen Ambrozy (CRD #1736286, Registered Representative, Cranford, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, which includes the disgorgement of \$6,800 in commissions, and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Ambrozy reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ambrozy consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide written notification to, or obtain written approval from, his member firm.

Ambrozy's suspension began August 6, 2001, and will conclude at the close of business February 5, 2003. (NASD Case #C10010086)

Radcliff St. Aubyn Bent (CRD #1306247, Registered Representative, Colts Neck, New Jersey) was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 business days for failing to execute a sell order, fined \$70,000 and barred from association with any NASD member in any capacity for effecting unauthorized transactions in public customer accounts, and barred from association with any NASD member in any capacity for testifying falsely in an NASD on-

the-record interview. Bent was also ordered to pay \$175,605, plus interest, in restitution to public customers. The fines are due and payable when and if Bent seeks to reenter the securities industry. The restitution amounts shall become due and payable on a date set by the NASD. The sanctions were based on findings that Bent executed unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Bent failed to execute a customer sell order and provided false testimony during an NASD on-the-record interview.

Bent's bar was effective July 2, 2001. (NASD Case #C10000026)

Michael Alexander Bufano (CRD #3199805, Associated Person, Bronx, New York) was named as a respondent in an NASD complaint alleging that he removed checks from his member firm's checkbook, filled out the checks for a total of \$2,000, and converted the funds for his own personal use and benefit without the firm's knowledge, authorization, or consent. The complaint also alleges that Bufano forged the signatures of an authorized signatory employed by his firm and the purported drawee on the checks. In addition, the complaint alleges that Bufano failed to respond to NASD requests for information. (NASD Case #C10010087)

Mario Joseph Coniglione (CRD #2423861, Registered Representative, West Orange, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Coniglione failed to respond to questions during an NASD on-the-record interview. (NASD Case #C10000140)

Vincent Peter Coniglione (CRD #1756741, Registered Principal, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Coniglione failed to testify during an NASD on-the-record interview. (NASD Case #C10000116)

Continuum Capital, Inc. (CRD #29864, New York, New York) and Mark Abraham Zborowski (CRD #1325328, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$22,630, 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 Zborowski, engaged in an options business with public customers without qualifying an individual at the firm as a registered options principal. The findings also stated that the firm, acting through Zborowski, failed to submit an amended Form BD with the NASD following the termination of its Limited Principal – Financial and Operations (FINOP) within 30 days and failed to designate a new FINOP. The NASD also found that the firm, acting through Zborowski, permitted an individual to perform functions requiring registration as a registered representative while such registration was inactive for failing to complete the Regulatory Element of the Continuing Education Program within the prescribed time period. Furthermore, the NASD

found that the firm, acting through Zborowski, allowed another individual to engage in a securities business while not being properly registered with the firm. (NASD Case #C10010077)

Damien Robert Douglas (CRD #2255355, Registered Representative, Queens, New York) was fined \$60,000, barred from association with any NASD member in any capacity, and ordered to pay \$29,886, plus interest, in restitution to public customers. The fine must be paid when and if Douglas seeks reentry into the securities industry. The sanctions were based on findings that Douglas executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Douglas provided false account information to a customer.

Douglas has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C10000026)

Theodore Thomas Eastwick (CRD #1571559, Registered Principal, New York, New York) was named as a respondent in an NASD complaint alleging that he prepared a letter from a public customer purportedly directing the liquidation of all shares held in an account of the customer even though the customer was deceased and that he forged the customer's signature to the letter. The complaint also alleges that Eastwick forged the customer's signature on a check-writing authorization form and specimen signature card for the customer's account. In addition, the complaint alleges that Eastwick forged the customer's signature on checks totaling approximately \$7,000 drawn against the account and converted the funds for his own use and benefit without the customer's knowledge, authorization, or consent. (NASD Case #C10010090)

Falkin Platnick Securities Company, Inc. (CRD #22367, Cranford, New Jersey) and Albert Barry Platnick (CRD #715612, Registered Principal, Livingston, New Jersey) 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, acting through Platnick, engaged in a private placement offering on a best-efforts basis without establishing an escrow account and transmitted investor funds to the general partner of the private placement offering prior to meeting the minimum contingency set forth in the offering memorandum. The findings also stated that the firm, acting through Platnick, conducted a securities business while failing to maintain its minimum net capital. (NASD Case #C10000092)

Global Equities Group, Inc. (CRD #34039, New York, New York) and Igor Eric Kuvykin (CRD #2268044, Registered Representative, Brooklyn, New York). The firm was fined \$1,142,330, expelled from NASD membership, and ordered to disgorge \$872,330 in ill-gotten gains. Kuvykin was fined \$160,000 and barred from association with any NASD member in any capacity. The fines must be paid before the

respondents' reentry into the securities industry. The sanctions were based on findings that the firm, acting through Kuvykin and others, operated as a "boiler room" and caused the firm's sales force to use high-pressure sales tactics, to make material misstatements of fact including baseless price and performance predictions, and to withhold material information from customers purchasing securities. The findings also stated that the firm, acting through Kuvykin and others, maintained a policy that required the firm's retail customers who purchased a security in an initial public offering (IPO) to purchase approximately three common stock shares for every one warrant and failed to disclose the policy in the prospectus and other documents delivered to customers. The firm, acting through Kuvykin and others, also allocated IPO warrants to the firm's sales force as a gift, bonus, or incentive to sell the IPO securities, and failed to require the brokers to disclose this fact to the customers.

The NASD found that the firm, acting through Kuvykin and others, acted as a market maker in, and entered bids for, IPO common stock and warrants while the firm was acting as a distribution participant. In addition, the findings stated that the firm, acting through an individual, violated the Free-Riding and Withholding Interpretation and executed the purchase of shares and warrants in the accounts of public customers who sold the stock and warrants in the immediate aftermarket for profit. The NASD also found that the firm permitted individuals to engage in activities that required registration with the NASD even though the individuals were not properly registered with the NASD and Kuvykin engaged in activities requiring registration as a general securities principal even though he was not registered as such with the NASD. Furthermore, the NASD found that the firm, acting through individuals, failed to establish, maintain, and enforce written supervisory procedures pertaining to the firm's underwriting and retail brokerage activities and the qualifications of and registration process for associated persons. Moreover, the NASD found that Kuvykin failed to testify truthfully during NASD on-the-record interviews. (NASD Case #C1000029)

Grady and Hatch & Company, Inc. (CRD #14262, Staten Island, New York) and Robert Edward Grady (CRD #226921, Registered Principal, Dix Hills, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and the firm and Grady were fined \$10,000, jointly and severally. Grady was also suspended from association with any NASD member in any principal 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 the firm, acting through Grady, misrepresented its net capital and failed to maintain sufficient net capital while conducting a securities business. The findings also stated that the firm, acting through Grady, failed to adopt, maintain, and enforce written supervisory procedures adequately designed to ensure compliance with the Securities and Exchange Commission (SEC) net capital rule.

Grady's suspension began August 6, 2001, and concluded at the close of business August 10, 2001. (NASD Case #C10010089)

International Securities Corporation (CRD #36023, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$2,500, jointly and severally, and fined an additional \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through an individual, it filed an inaccurate FOCUS report and failed to maintain sufficient net capital while conducting a securities business. The findings also stated that the firm failed to utilize the services of an independent public accountant to audit its year-end fiscal reports filed with the NASD. Furthermore, the NASD found that the firm failed to report to ACT transactions within 90 seconds of execution and failed to designate transactions as late. In addition, the NASD found that the firm failed to correctly report to ACT whether it acted as a principal or as an agent in transactions and failed to establish a Continuing Education Program (Firm Element) for its registered employees. (NASD Case #C10010088)

Vito Robert Lomonaco (CRD #2159938, Registered Principal, Bronx, New York) 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 \$11,000, plus interest, in restitution to a public customer. Satisfactory proof of payment of restitution, plus interest, must be provided before Lomonaco reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lomonaco consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction and failed to provide written notification to, or obtain written approval from, his member firm. The findings also stated that Lomonaco failed to appear for NASD on-the-record interviews. (NASD Case #C10010084)

Jenny Loo (CRD #2422041, Registered Principal, Staten Island, New York) submitted an Offer of Settlement in which she was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Loo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Loo consented to the described sanctions and to the entry of findings that she failed to respond truthfully and non-deceptively during an NASD on-the-record interview.

Loo's suspension began July 16, 2001, and will conclude at the close of business July 15, 2003. (NASD Case #C10010046)

Alphonse Mekalainas, Jr. (CRD #1276859, Registered Principal, Farmingdale, 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 capacity for 10 business days.

Without admitting or denying the allegations, Mekalainas consented to the described sanctions and to the entry of findings that he failed to establish written supervisory procedures specifically addressing his member firm's government securities business and failed to designate a principal responsible for supervising his firm's government securities business. The findings also stated that Mekalainas reviewed, initialed, and approved, in a principal capacity, order tickets for government securities transactions for which public customers of his member firm were charged excessive markups.

Mekalainas' suspension will begin August 20, 2001, and will conclude at the close of business August 31, 2001. (NASD Case #C10010091)

John Richard Monderine (CRD #2692814, Registered Representative, Nesconsett, 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, Monderine consented to the described sanction and to the entry of findings that he used the registered representative numbers of other registered representatives to effect securities transactions on behalf of public customers residing in states in which he was unregistered, thereby circumventing state securities laws. The findings also stated that Monderine provided false testimony during NASD on-the-record interviews. (NASD Case #C10010093)

George Paul Nikitovich (CRD #840601, Registered Representative, Cross River, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$31,358, which includes disgorgement of \$21,358 in commissions received, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Nikitovich consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the account of a public customer without prior authorization from the customer, or from any representative of the customer, and prior written acceptance of the account as discretionary by his member firm. The findings also stated that Nikitovich liquidated transactions in the account of the public customer without authorization from a representative of the customer. Nikitovich was already advised that the customer had died.

Nikitovich's suspension began August 6, 2001, and will conclude at the close of business September 4, 2001. (NASD Case #C10010080)

Christopher Michael O'Connell (CRD #2305843, Registered Representative, Mineola, New York) was fined \$35,000 and suspended from association with any NASD member in any capacity for nine months for permitting individuals to use his representative number and falsifying account records, and barred from association with any NASD member in any capacity for failing to permit the NASD staff to inspect and copy records. The sanctions were based on findings that O'Connell allowed unregistered individuals to engage in conduct requiring registration including using

O'Connell's registered representative number and/or his production number to effect securities transactions on behalf of public customers. The findings also stated that O'Connell allowed registered representatives to use his registered representative number and/or his production number to effect securities transactions on behalf of public customers residing in states where the other representatives were not registered. In addition, the NASD found that O'Connell signed new customer account forms as the registered representative for accounts that were serviced by other registered representatives, thereby falsifying customer records. Furthermore, the NASD found that O'Connell failed to respond to NASD requests to inspect and copy records.

O'Connell's bar became effective June 29, 2001. (NASD Case #C10010001)

Chung Suk Oh (CRD #2838370, Registered Representative, New York, 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 50 days. The fine must be paid before Oh reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Oh consented to the described sanctions and to the entry of findings that he exercised discretion in the account of a public customer without prior written authorization from the customer or written acceptance of the account as discretionary by his member firm. The findings also stated that Oh failed to respond timely to NASD requests for information.

Oh's suspension began July 16, 2001, and will conclude September 3, 2001. (NASD Case #C10010009)

Frank Anthony Persico (CRD #1693712, Registered Representative, Staten Island, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Persico failed to respond to questions during an NASD on-the-record interview. (NASD Case #C10000139)

Pond Equities, Inc. (CRD #30934, Brooklyn, New York) and Ezra Yehuda Birnbaum (CRD #1553347, Registered Principal, Brooklyn, New York) 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 an additional \$7,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Birnbaum, failed to enforce its written supervisory procedures in that it could not provide evidence that when customers made checks payable to the firm, the firm informed the customers in writing of the requirement to make checks payable to the clearing firm in the future. The findings also stated that the firm failed to show the correct time of execution on the order memoranda in transactions. In addition, the NASD found that the firm executed short sale transactions in Nasdaq National Market® (NNM) securities and failed to report the transactions to Automated Confirmation Transaction ServiceSM (ACTSM) with a short sale

modifier. Furthermore, the findings stated that the firm, acting through Birnbaum, failed to report customer complaints to the NASD as part of the Statistical and Summary Reporting requirement. (NASD Case #C10010081)

Peter Van Hamm (CRD #2530393, Registered Representative, Dunellen, New Jersey) was named as a respondent in an NASD complaint alleging that he executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent. (NASD Case #C10010082)

Wise Planning Corporation (CRD #899, Hicksville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it maintained representative registrations for individuals who were no longer active in the firm's securities business. (NASD Case #C10010079)

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)

July Actions

James Hugh Boughamer (CRD #26869, Registered Representative, Valrico, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$1,500, suspended from association with any NASD member in any capacity for six months, and required to disgorge \$1,200 in commissions to public customers. Without admitting or denying the allegations, Boughamer consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Boughamer's suspension began July 2, 2001, and will conclude January 1, 2002. (NASD Case #C11010022)

August Actions

Frank Joseph Macri, Jr. (CRD #703524, Registered Representative, Apalachin, 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 one month. Without admitting or denying the allegations, Macri consented to the described sanctions and to the entry of findings that he failed to update his Form U-4 to disclose a material fact.

Macri's suspension began July 2, 2001, and concluded at the close of business August 1, 2001. (NASD Case #C11010025)

ENFORCEMENT DEPARTMENT

July Actions

None.

August Actions

Joseph Dillon & Company, Inc. (CRD #35220, Great Neck, New York), Steven Richard Jaloza (CRD #1320831, Registered Principal, Muttontown, New York), and Patrick Gerard Hennessy (CRD #1666607, Registered Principal, Aberdeen, New Jersey) submitted Offers of Settlement in which the firm was censured, fined \$25,000 jointly and severally with Jaloza, and ordered to disgorge \$125,000, jointly and severally with Jaloza to the NASD. Jaloza was suspended from association with any NASD member in any capacity for 90 days and barred from association with any NASD member in any registered principal capacity. In light of his financial status, Hennessy was fined \$5,000, and he was suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm conducted an IPO for which the registration statement disclosed two selling shareholders whose shares were subject to a two-year lockup agreement that could only be released at the sole discretion of the firm. The findings stated that the firm and Jaloza released the lockup agreements, engaged in a distribution of the selling shareholders' shares, and repurchased and resold shares in a second distribution immediately upon the beginning of aftermarket trading that made representations in the prospectus materially misleading. In addition, the NASD found that the firm and Jaloza failed to immediately amend the prospectus to disclose the release of the lockup agreements, failed to disclose that the firm received compensation for the sale of shares, and failed to inform the NASD that the firm would be receiving compensation in connection with the distribution of the selling shareholders' shares. The firm, acting through another individual, sold warrants of the IPO to an immediate family member in violation of the Free-Riding and Withholding Interpretation. Furthermore, the NASD found that the firm and Jaloza failed to establish a supervisory system that included written procedures to achieve compliance with applicable securities laws and regulations regarding sales activities. The findings also stated that Hennessy consented to the described sanctions and to the entry of findings that he published quotations for, and bid for, shares of the IPO during distributions in violation of SEC and NASD rules and regulations. Jaloza's bar in any registered principal capacity became effective June 25, 2001. Jaloza's suspension began August 6, 2001, and will conclude November 3, 2001. Hennessy's first five-day suspension began July 23, 2001, and concluded at the close of business July 27, 2001. Hennessy's second five-day suspension will begin August 20, 2001, and will conclude at the close of business August 24, 2001. (NASD Case #CAF000040)

Royal Hutton Securities Corp. (CRD #14489, New York, New York) submitted an Offer of Settlement in which the firm was fined \$20,000 and expelled from NASD membership. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in stock manipulation and fraudulent sales practices. The firm, directly and/or indirectly, singly and in concert, by use of the means or instrumentalities of interstate commerce, or of the mails, and in connection with the purchase and sale of securities, knowingly or recklessly employed a device, scheme, or artifice to defraud, made untrue statements of material fact and/or omitted material facts necessary to make statements made, in light of the circumstances, not misleading, and/or engaged in acts, practices, or courses of business which operated as a fraud or deceit upon persons. The findings also stated that the firm, directly or indirectly, controlled registered representatives and principals that, in connection with the sale of house stocks, made material misrepresentations, received excessive commissions, failed to inform purchasers that they were receiving these excessive commissions, and discouraged the sale of the stocks. In addition, the NASD found that the firm knowingly allowed representatives and principals to withhold material information from public customers including the nature of the risk of the investment, the amount of commission the broker would receive in connection with the transaction, and the limitations on the circumstances under which such securities could be sold. (NASD Case #CAF000042)

James Thomas Shanley (CRD #839313, Registered Principal, Old Bridge, New Jersey) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in a principal capacity for two months. Without admitting or denying the allegations, Shanley consented to the described sanctions and to the entry of findings that, on behalf of a member firm, he failed to establish, maintain, and enforce written procedures to supervise the types of business in which the firm engaged that were reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to markdowns. The findings also stated that Shanley failed to supervise the activities of his member firm and its registered representatives with respect to excessive and fraudulent markdowns.

Shanley's suspension began July 16, 2001, and will conclude September 15, 2001. (NASD Case #CAF000013)

MARKET REGULATION DEPARTMENT

July Actions

Andover Brokerage, L.L.C. (CRD #33848, Montebello, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$22,500, and required to revise its written supervisory procedures concerning short sales. Without admitting or denying the allegations, the firm

consented to the described sanctions and to the entry of findings that it executed short sale transactions in certain securities, all of which were Nasdaq National Market, (NNM) securities, at or below the current inside bid when the current bid was below the preceding inside bid in the security. The findings also stated that the firm executed short sale orders in certain securities and failed to make an affirmative determination prior to executing such transactions, and executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. Furthermore, the NASD found that the firm executed long sale transactions and incorrectly reported each of these transactions to ACT with a short sale modifier; failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity; and executed short and long sale orders and failed to properly mark the order tickets as short or long for those orders. Also, the NASD determined that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning short sales. (NASD Case #CMS010049)

Interactive Brokers LLC (CRD #36418, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it exercised a short sale transaction for a customer in NNM securities, at or below the current inside bid, when the current inside bid was below the preceding inside bid in each of the securities. The findings also stated that the firm executed short sale orders for a customer in certain securities and failed to make an affirmative determination prior to executing such transactions for the customer. Also, the NASD found that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning short sales. (NASD Case #CMS010065)

J. P. Morgan Securities, Inc. (CRD #15733, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported to the Order Audit Trail System (OATSSM) execution reports with respect to equity securities traded on The Nasdaq Stock Market[®] that contained either inaccurate, incomplete, or improperly formatted data and because of such, the OATS system was unable to match the execution reports to the related trade reports to ACT. The findings also stated that the firm failed to transmit order information to OATS that was required to be transmitted in the electronic form prescribed by the NASD. In addition, the NASD found that a reporting agent responsible for submitting a portion of the firm's OATS data inadvertently disabled the OATS reporting for the firm and as a result of such actions, OATS reports were not transmitted to the NASD. The NASD also determined that the firm's supervisory system did not provide

for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS reporting and the firm failed to report to Fixed Income Pricing SystemSM (FIPSSM) transactions in FIPS securities within five minutes after execution. (NASD Case #CMS010052)

Logan Rock (CRD #42691, Arlington, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions in NNM securities, at or below the current inside bid, when the current inside bid was below the preceding inside bid in each of the securities and at a price less than 1/16th above the inside bid when the current inside spread was 1/16th or greater in each of the securities. 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 short sales. (NASD Case # CMS010060)

May Davis Group, Inc. (CRD #35622, 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 relating to the Securities and Exchange Commission (SEC) and NASD firm quote 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 presented at the firm's published bid or published offer in an amount up to its published quotation size, 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 respect to applicable securities laws and regulations concerning the SEC and NASD firm quote rules. (NASD Case #CMS010056)

Spear, Leeds & Kellogg, L.P. (CRD #3466, 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 in approving the opening of new customer accounts and making a market for securities, the firm did not enforce its written supervisory procedures by failing to obtain certain new account information required by its written procedures before opening new customer accounts, and failed to detect that its trading department had initiated quotations in securities without the firm's written approval. (NASD Case #CMS010054)

August Actions

Alpine Securities Corporation (CRD #14952, Salt Lake City, Utah) 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 with

respect to 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, it failed to execute orders presented to the firm at the firm's published bid or offer in an amount up to its published quotation size and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quotations. (NASD Case #CMS010103)

Cathay Financial LLC (CRD #30065, 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 executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. The findings also stated that the firm executed short sale orders in certain securities and failed to annotate an affirmative determination prior to executing such transactions, and the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning short sales. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person(s) responsible at the firm to ensure compliance with the applicable rules, a statement of the step(s) that such person(s) should take to ensure compliance therewith, and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS010104)

Crowell, Weedon & Co. (CRD #193, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to submit revised written supervisory procedures with respect to compliance with the firm quote rule to the NASD. 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 at the firm's published bid or published offer in an amount up to its published quotation size, failed to execute orders, and thereby, failed to honor its published quotation. The NASD also found that the firm failed to establish, maintain, and enforce written supervisory procedures. (NASD Case #CMS010099)

Dean Witter Reynolds, Inc. (CRD #7556, 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 as a market maker in securities, without making reasonable efforts to avoid a locked market by executing transactions with all market makers whose quotations would be locked, entered bid or asked quotations in The Nasdaq Stock Market[®] that caused a locked market condition to occur in each instance. (NASD Case #CMS010102)

Key West Securities, Inc. (CRD #38305, Cardrift By The Sea, California) and Amr Ibrahim Elgindy (CRD #1824634, Registered Principal, Colleyville, Texas) were named as respondents in an NASD complaint alleging that the firm, acting through Elgindy, engaged in a manipulative, deceptive, and fraudulent scheme involving the trading of a security by obtaining money, selling the security short at higher manipulated prices, and then attempting to cover the short position at a lower price by causing the price of the security to drop through the dissemination of deceptive sell recommendations about the security. The complaint further alleges that, in furtherance of the scheme, and in an attempt to profit from the security's short position, the firm, acting through Elgindy, disseminated, or made generally available to customers or the public, a report concerning the security in which the firm initiated coverage of the security with a sell recommendation. The complaint alleges that the report was deceptive in that the respondents failed to disclose that the firm was registered as a market maker and held a proprietary short position in the security. The NASD alleges that by this conduct, the firm, acting through Elgindy, by the use of means or instrumentalities of interstate commerce, to wit, the Nasdaq System and news wire services, intentionally and recklessly effected transactions in, and induced the purchase and sale of a security by means of manipulative, deceptive, and other fraudulent devices or contrivances. (NASD Case #CMS000015)

New World Securities, Inc. (CRD #14694, Garden City, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$18,500, and required to revise its written supervisory procedures with respect to securities laws and regulations and NASD rules concerning short sales. 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 in certain securities and failed to make an affirmative determination prior to executing such transactions and failed to properly mark the order tickets as short for those orders. The findings also stated that the firm failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity, executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier, and executed short sale transactions in certain securities, all of which were NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. Furthermore, the findings stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning short sales. (NASD Case #CMS010101)

Penson Financial Services, Inc. (CRD #25866, 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, without making

reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or asked quotations in The Nasdaq Stock Market that caused a locked or crossed market condition to occur in each instance. (NASD Case #CMS010081)

Redwood Brokerage Services, Inc. (CRD #39416, 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. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to transmit to the Order Audit Trail System (OATSSM) reports containing each applicable item of order information identified in NASD Marketplace Rule 6954. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations, and NASD rules concerning OATS. (NASD Case #CMS010076)

Robb, Peck, McCooley Clearing Corporation (CRD #7432, New York, New York) submitted an Offer of Settlement 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 transactions in NNM securities and transactions in CQS securities to ACT within 90 seconds of execution, and failed to designate each of these transactions as late by appending the ".SLD" modifier. The findings also stated that the firm engaged in a pattern and practice of late trade reporting without exceptional circumstances, and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning trade reporting. (NASD Case #CMS000057)

Southwest Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$39,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with a customer, 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. The findings also stated that the firm failed to display immediately customers' limit orders in Nasdaq securities in its public quotation and the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations. Furthermore, the NASD found that the firm, as a market maker in securities, failed to execute orders upon presentment and thereby failed to honor its published quotation, and without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered or maintained a bid in The Nasdaq Stock Market, Inc. during the

period of time that secondary trading commenced immediately following the completion of an IPO of the subject security which caused a locked or crossed market condition to occur in each instance. (NASD Case #CMS010097)

Wien Securities Corporation (CRD #10467, Jersey City, 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 ACT short sale reporting, Small Order Execution SystemSM (SOESSM) trading, locked and crossed markets, information barriers, OATS, and the regular and rigorous assessment of competing markets. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. The findings also stated that the firm failed to immediately display customer limit orders in its public quote, when each such order was at a price better than its public quote, or at a price equal to its public quote when such quote was priced equal to the national best bid or offer in such security and that order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. Furthermore, the NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning ACT short sale reporting, SOES trading, locked and crossed markets, information barriers, OATS, and the regular and rigorous assessment of competing markets. (NASD Case #CMS010078)

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