

# Monthly Disciplinary Actions March 1996

Unless otherwise indicated, suspensions will begin with the opening of business on Monday, March 18, 1996. The information relating to matters contained in this section is current as of March 5, 1996. Information received subsequent to March 5, 1996 is not reflected in this section.

## **Firm Expelled, Individuals Sanctioned**

**Domestic Capital, Inc. (Buffalo, New York), Michael A. Wier (Registered Principal, East Aurora, New York), Michael J. Clark (Registered Principal, Orchard Park, New York), William G. Suchocki (Registered Principal, Springville, New York) and Timothy T. Kraska (Registered Representative, N. Tonawana, New York)** submitted an Offer of Settlement pursuant to which the firm was expelled from NASD membership. Wier was fined \$75,000 and barred from association with any NASD member in any capacity with a right to reapply after three years and Clark and Suchocki were each fined \$100,000 and barred from association with any NASD member in any capacity. Kraska was fined \$150,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, Wier, Clark, Suchocki, and Kraska made fraudulent misrepresentations and price predictions, failed to disclose material facts, and made unsuitable recommendations of securities to public customers. The NASD also found that Clark and Suchocki fabricated and inflated financial information in questionnaires of customers who purchased stock in private offerings to make it appear that the investments were appropriate when, in fact, they were unsuitable. By doing so, Clark and Suchocki caused the firm's books and records to be false and inaccurate. The findings also stated that the firm, acting through Wier and Clark, failed to establish, implement, and enforce reasonable supervisory procedures designed to prevent the sales practice and record keeping violations.

## **Firms Fined, Individuals Sanctioned**

**Regency Capital Group, Inc. (Glendale, California) and Cynthia D. Phillips (Registered Principal, Woodland Hills, California).** The firm and Phillips were fined \$25,000, and required to disgorge \$4,736, both jointly and severally. Phillips was required to requalify by exam as a general securities principal and as a general securities sales representative. The sanctions were based on findings that the firm, acting through Phillips, effected riskless principal retail transactions with customers in securities when the firm was not a market maker in these securities. The firm was required to confirm these transactions to its customers and disclose in writing the total amount of any markup, markdown, or similar remuneration received. The firm, acting through Phillips, sent confirmations to its customers that failed to comply with the provisions of Securities and Exchange Commission (SEC) Rule 10b-10(a)(8)(i)(A) and effected transactions at prices that were unfair and excessive in that the total prices charged to customers ranged from 6.74 to 9.69 percent above the firm's contemporaneous cost for these securities. The firm, acting through Phillips, effected securities transactions without complying with the requirements of SEC Rule 15g. The firm, acting through Phillips, also failed to maintain adequate written supervisory procedures and failed to respond to NASD requests for information within the time periods requested and without showing good cause for failure to provide the requested information in a timely manner.

**Sovereign Equity Management Corp. (Boca Raton, Florida) and Glen T. Vittor (Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and

Consent pursuant to which they were fined \$15,926, which includes disgorgement of commissions totaling \$5,926. In addition, Vittor 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, acting through Vittor, sold shares of stock that traded at a premium in the immediate aftermarket to restricted persons.

**The Wellington Group, Inc. (New York, New York) and Kevin Henry Kading (Registered Principal, Staten Island, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$40,000, jointly and severally. Kading was required to requalify by exam as a general securities principal, suspended from association with any NASD member in any principal capacity for two years, suspended from recommending transactions in designated securities for two years, and suspended from serving as an officer or director of or maintaining ownership (including partial ownership) or control of a brokerage firm whose business includes servicing retail customers for two years (excluding institutional investors as defined by SEC Rule 15a-6(b)(7)). Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Kading, failed to comply with its restriction agreement, in that the firm solicited the receipt of customer funds, did not comply with its inventory limitations, and failed to maintain at all times a qualified financial and operations principal.

The findings also stated that the firm, acting through Kading, conducted a securities business while failing to maintain the required minimum net capital, computed inaccurate capital computations due to the firm's understatement of its minimum net capital requirement, and calculated inaccurate blockage and haircut charges. The NASD found that the firm, acting through Kading, failed to comply with the Penny-Stock Rules (SEC Rule 15g) in that 90 transactions were effected without obtaining the appropriate documentation and providing the required disclosures. The NASD also determined that the firm, acting through Kading, failed to evidence its supervision of transactions and the firm's written supervisory procedures did not adequately or accurately set forth the supervisory system to supervise the activities of registered representatives and associated persons, nor did it accurately include the titles, registration status, and locations of the required supervisory personnel and the responsibilities of each supervisory person as these relate to the types of business engaged in, applicable securities laws and regulations, and the NASD Rules.

#### **Firm And Individuals Fined**

**Spencer Trask Securities, Inc. (New York, New York), Robert P. DiVenere (Registered Principal, Old Greenwich, Connecticut), and Robert J. Hume, III (Registered Principal, Ossining, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$10,000, jointly and severally, and ordered to pay \$3,948 in restitution. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through DiVenere and Hume, failed to comply with the Penny-Stock Rules (SEC Rule 15g) in that the firm failed to furnish customers who were deemed to be nonexempt under the rule the requisite risk disclosure statements, suitability documents, and written agreements before they purchased the penny stock. The NASD also found that the firm did not furnish the customers the requisite disclosures on these transactions as well as the requisite account statements.

#### **Firm Fined**

**Investors Associates, Inc. (Hackensack, New Jersey), Donna M. Silverman (Registered Principal, New York, New York ), and Alexander N. Cherepakhov (Registered Principal,**

**New York, New York)** submitted Letters of Acceptance, Waiver and Consent pursuant to which the firm was fined \$10,000. Silverman and Cherepakhov were fined \$40,000, jointly and severally, and required to disgorge \$35,000 in commissions to the NASD. Silverman was suspended from association with any NASD member in any capacity for 30 days and ordered to requalify by exam as a general securities principal. Cherepakhov was suspended from association with any NASD member in any principal capacity for 90 days and ordered to requalify by exam as a general securities principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Silverman and Cherepakhov, permitted and facilitated two individuals to function as registered representatives at a branch office of the firm without being registered with the NASD.

#### **Individuals Barred Or Suspended**

**David A. Andriacco (Registered Representative, Loveland, Ohio)** submitted an Offer of Settlement pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Andriacco consented to the described sanctions and to the entry of findings that he performed financial planning services, sold insurance, and serviced pension plans for a nonmember of the NASD and failed and neglected to give prompt written notice of this outside employment to his member firm. The findings also stated that Andriacco engaged in securities transactions on a private basis without prior written notice to and approval from his member firm.

**John J. Balkovec (Registered Representative, Pittsburgh, Pennsylvania)** submitted an Offer of Settlement pursuant to which he was fined \$150,000, barred from association with any NASD member in any capacity, and required to pay \$54,000 plus interest in restitution to a member firm. Without admitting or denying the allegations, Balkovec consented to the described sanctions and to the entry of findings that he received from a public customer \$50,000 for investment purposes. The NASD found that, without the customer's authorization, Balkovec established an account in the customer's name and withdrew and used funds for his personal purposes. The findings also stated that Balkovec falsified a document purporting to be a confirmation by his member firm of the purchase of the stock, falsified documents purporting to be statements of account issued by his member firm to the customer, and submitted such documents to the customer.

**Jon R. Butzen (Registered Representative, Lakemoor, Illinois)** was fined \$12,500 and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of a March 1995 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that Butzen failed to disclose on his Uniform Application for Securities Industry Registration or Transfer (Form U-4) that he was the subject of a pending NASD complaint. Butzen also executed unauthorized transactions in the account of a public customer without the customer's knowledge, consent, or authorization to exercise discretion in the account. Butzen also failed to respond timely to NASD requests for information.

**Paul McCulloch Byatt (Registered Representative, Irving, Texas)** was fined \$1,000, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam. The sanctions were based on findings that Byatt failed to respond timely to NASD requests for information about his financial transactions with a public customer.

**Matthew L. Carragher (Registered Representative, San Diego, California)** was fined \$72,500, barred from association with any NASD member in any capacity, and ordered to reimburse his member firm \$9,500. The sanctions were based on findings that Carragher received from public customers checks totaling \$10,500 for investment purposes. Carragher cashed the checks; however, the customers never received confirmations or account statements referencing these purchases and Carragher forwarded a falsified statement to one of the customers. Carragher failed to purchase the shares or to return the money to the customers and converted the funds for his own use. Carragher also failed to respond to NASD requests for information.

**Andrew P. Cinman (Registered Principal, Atlanta, Georgia)** was fined \$50,000 and barred from association with any NASD member in any capacity with the right to reapply in nonsupervisory or nonproprietary capacities after three months. The SEC affirmed the sanctions following appeal of a May 1995 NBCC decision. The sanctions were based on findings that Cinman effected transactions in his personal securities account at his member firm that were beyond his financial means, resulting in violations of the margin requirements set for in Regulation T of the Federal Reserve Board and the NASD Rules of Fair Practice.

**David R. Clark (Registered Representative, St. Clairsville, Ohio)** submitted an Offer of Settlement pursuant to which he was fined \$35,000, barred from association with any NASD member in any capacity, and ordered to pay \$2,902.51 in restitution. Without admitting or denying the allegations, Clark consented to the described sanctions and to the entry of findings that he received from public customers checks totaling \$2,902.51 for a life insurance premium. According to the findings, Clark did not use these funds for their intended purpose, but for some purpose other than for the benefit of the customers. The NASD also determined that Clark failed to respond to NASD requests for information.

**John DePalo (Registered Representative, Pleasantville, New York)** was fined \$28,750, barred from association with any NASD member in any capacity, and ordered to pay \$3,750 in restitution to customers. The sanctions were based on findings that DePalo received from public customers \$3,750 in checks from public customers to purchase a common stock, failed to deliver the stock to the customers, and retained the payments received for the purchases. DePalo also engaged in private securities transactions, and failed to provide written notice to his member firm of the described transactions, his proposed role in the transactions, and whether he was receiving compensation in connection with the transactions.

**Rosemary Eskridge (Associated Person, South Pasadena, California)** was fined \$41,312.50, barred from association with any NASD member in any capacity, and ordered to reimburse a public customer \$4,262.50. The sanctions were based on findings that Eskridge solicited a customer to purchase shares of stock and instructed the customer to mail her a \$4,262.50 check to purchase the stock. The customer agreed and mailed the check to Eskridge. Eskridge told the customer that she had not received the check, instructed the customer to deliver \$4,262.50 cash to her to consummate the purchase transaction, and told the customer that she would return the check to him as soon as she had received it. Eskridge converted the cash for her own use and subsequently received the check but did not return it to the customer. Eskridge also failed to respond to NASD requests for information.

**Jody M. Felterman (Registered Representative, Patterson, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$220,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Felterman consented to the described sanctions and to the entry of findings that

he received from public customers \$6,235,123 for investment purposes and failed and neglected to make the investments. The NASD found that Felterman converted a portion of the funds to his own use and benefit without the customer's knowledge or consent. The NASD also determined that, in connection with the aforementioned activities, Felterman made material misrepresentations to the customers to induce the purchase of securities. The findings also stated that, in connection with a check-kiting scheme, Felterman failed and neglected to deposit funds timely into securities accounts, deposits which he caused to be reflected on his firm's cash receipts blotter and customer ledgers, thus causing his member firm's books and records to be inaccurate. Felterman also failed to respond to NASD requests for information.

**Anatoly V. Finkel (Registered Representative, Cincinnati, Ohio)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Finkel failed to respond to NASD requests for information regarding a customer complaint.

**Francis W. Giampa (Registered Representative, Ambler, Pennsylvania)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Giampa failed to respond to NASD requests for information.

**Alexander Godelman (Registered Representative, Paramus, New Jersey)** was fined \$40,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Godelman received from public customers for mutual fund purchases a \$10,000 check payable to a company he owned and controlled. Instead, Godelman deposited these funds into the company's bank account and commingled them with other funds. Godelman also failed to respond to an NASD request for information.

**Peter M. Harrington (Registered Representative, Clarence, New York)** was fined \$150,000, barred from association with any NASD member in any capacity, and ordered to pay \$125,412.01 in restitution to customers. The sanctions were based on findings that Harrington failed to deliver liquidation proceed checks totaling \$75,412.01 to public customers, but, instead, endorsed the customers' names on the checks and used the funds for some purpose other than for the benefit of the customers. Harrington also obtained \$50,000 from a public customer to purchase a certificate of deposit, and, without the knowledge or consent of the customer, he retained the funds for his own use and benefit. Harrington engaged in the aforementioned transactions in the absence of written or oral discretionary authority in the customers' accounts and without their knowledge or consent.

**Michael S. Lerner (Registered Principal, Woodland Hills, California)** was fined \$20,000 and barred from association with any NASD member. The sanctions were based on findings that Lerner failed to respond to NASD requests for information concerning its investigation of certain sales scripts used in connection with the sale of a limited partnership offering.

**Garnet M. Marcotte (Registered Representative, Oxford, Massachusetts)** submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Marcotte consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information about a customer complaint.

**John M. Mayberry (Registered Principal, Oklahoma City, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two weeks. Without admitting or denying the allegations, Mayberry consented to the described sanctions and to the entry of

findings that he issued sales literature to public customers without obtaining prior written authorization from his member firm. The NASD also found that, in connection with the sales literature, Mayberry omitted certain material facts.

**Robert Neal McWilliams (Registered Representative, Dallas, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that McWilliams, during the Series 7 exam, failed to adhere to PROCTOR Certification and Training center instructions in that he made use of handwritten notes relating to the exam's subject matter.

**Robert L. Miller (Registered Representative, Chicago, Illinois)** was fined \$30,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Miller received from a public customer \$164.99 in cash with instructions to use \$64.99 towards an insurance premium payment and \$100.00 toward a loan repayment. Miller failed to follow the customer's instruction and used the funds for some purpose other than for the benefit of the customer. Miller also failed to respond to NASD requests for information.

**Melissa Ann Myers (Registered Representative, Houston, Texas)** was fined \$42,630 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Myers instructed her member firm to issue a \$4,526 check to her from her account. After requesting the check, Myers requested that the funds be wired to her bank account. Subsequent to the wire transfer, Myers received a \$4,526 check from her member firm, cashed it, and converted the funds for her own use and benefit. Myers also failed to respond to NASD requests for information.

**Long Duc "Michael" Nguyen (Registered Representative, Westwood, California)** was fined \$80,000, barred from association with any NASD member in any capacity, and ordered to reimburse a public customer \$2,000. The sanctions were based on findings that Nguyen received from a public customer \$2,000 to purchase stock and submitted a falsified account statement to the customer showing that he deposited \$2,000 and purchased shares of stock for \$1,687.50. Nguyen failed to purchase the shares of stock or return the money to the customer and converted the funds for his own use. Nguyen also falsified a customer's signature on a subscription agreement and a pension administrator transfer form. Nguyen then forwarded the documents to his member firm to authorize the withdrawal of \$80,000 from a public customer's IRA account and the purchase of shares of a restricted stock to obtain \$6,800 in commissions without the customer's knowledge or consent. Nguyen also failed to respond to NASD requests for information.

**Jeffrey J. Norminton (Associated Person, Newport Beach, California)** was fined \$70,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Norminton caused \$95,000 to be transferred from the securities account of an institutional customer at his member firm to another member firm without the customer's knowledge or consent. Norminton also failed to respond to NASD requests for information.

**James Geoffrey Osborne (Registered Principal, Oshkosh, Wisconsin)** was fined \$20,000 and suspended from association with any NASD member in any capacity for two months. The NBCC imposed the sanctions following appeal of a Chicago District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Osborne obtained from a public customer a \$20,000 check to purchase a limited partnership interest. Instead of using the funds as instructed by the customer and without the customer's knowledge or consent, Osborne deposited the check in the account of a business entity in

which he had an interest or controlled and retained the funds for the use and benefit of the entity until a later date. Osborne also recommended the purchase of securities to a public customer without having reasonable grounds for believing that such recommendations were suitable for the customer based on the facts disclosed to him by the customer relating to her investment objectives, financial situation, and needs.

**Kirk Moore Rogers (Registered Representative, Elon College, North Carolina)** submitted an Offer of Settlement pursuant to which he was fined \$14,551.80 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Rogers consented to the described sanctions and to the entry of findings that he solicited for compensation investors who purchased \$191,036 in promissory notes outside the scope of his employment with his member firm without giving prior written notice to or receiving written approval from his member firm.

**John A. Stedman (Registered Representative, San Diego, California)** was fined \$90,000, barred from association with any NASD member in any capacity, and ordered to reimburse a public customer \$14,000. The sanctions were based on findings that Stedman received from a public customer a \$14,000 check for investment purposes. Stedman did not purchase the stock for the customer, but, instead, cashed the check and converted the funds for his own use. Stedman also failed to respond to NASD requests for information.

**Aldyth Stika (Registered Representative, Laguna Beach, California)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Stika failed to respond to NASD requests for information regarding its investigation of unauthorized trading.

**Robert T. Stout (Associated Person, Easton, Pennsylvania)** submitted an Offer of Settlement pursuant to which he was fined \$5,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stout consented to the described sanctions and to the entry of findings that he received from insurance customers premium payments totaling \$120.72 that he failed to remit to his member firm. The NASD found that Stout retained the funds for his own use and benefit.

**Steven W. Taylor (Registered Representative, Longmont, Colorado)** was suspended from association with any NASD member in any capacity for 90 days and required to requalify by exam in any capacity in which he seeks to act in the securities industry. The sanctions were based on findings that Taylor caused purchases of securities to be effected in the accounts of public customers for the sole benefit of another customer who paid for the securities and was the sole beneficial owner of these securities when the customer's account had been restricted by Taylor's member firm in accordance with Regulation T of the Federal Reserve Board. Taylor failed to notify his member firm or otherwise caused his member firm's records to reflect that the customer was the beneficial owner of the securities purchased in the account of the customers. Taylor also failed to cause his ownership of this account to be reflected on the firm's books and records.

**Gibrahn W. A. Verdult (Registered Representative, San Juan Capistrano, California)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Verdult failed to respond to NASD requests for information about an NASD investigation regarding the possible mishandling of a customer's account.

**David L. Weintraub (Registered Principal, Tampa, Florida)** submitted an Offer of Settlement pursuant to which he was fined \$15,000 and suspended from association with

any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Weintraub consented to the described sanctions and to the entry of findings that he recommended the purchase of a common stock to a public customer without having a reasonable basis for believing that said transaction was suitable for the customer. The NASD also found that Weintraub sold shares of common stock to public customers at unfair prices with markups of 20.6 percent over his firm's contemporaneous costs. The findings also stated that Weintraub filed false and inaccurate Form U-4s with the NASD.

**Robert Dean White (Registered Principal, Excelsior, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and barred from association with any NASD member as a financial and operations principal. Without admitting or denying the allegations, White consented to the described sanctions and to the entry of findings that a member firm, acting through White, conducted a securities business while failing to maintain its minimum required net capital. The findings also stated that White, acting on behalf of the firm, failed to prepare certain books and records accurately.

#### **Individuals Fined**

**William Norris Herred (Registered Representative, Santa Barbara, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and ordered to reimburse customers \$22,427.14. Without admitting or denying the allegations, Herred consented to the described sanctions and to the entry of findings that he charged retail securities customers more than a fair markup, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense of executing the order, and the value of any service he may have rendered. Herred also failed to disclose to the customers that the markups were unfair.

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

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

#### **Firms Expelled For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations**

**Northland Securities**, Newton, Massachusetts  
**Windsor Reynolds Securities, Inc.**, New York, New York

#### **Firm Suspended Pursuant To Article VI Section 2 Of The NASD Code Of Procedures For Failure To Pay An Arbitration Award**

The date the suspension began is listed after the entry.

**Wilshire Discount Securities**, Riverside, California (February 12, 1996)

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



**Robert A. Amato**, New Orleans, Louisiana  
**Hans A. Linders**, Phoenix, Arizona  
**Peer Jens Nuesken**, Pekin, Illinois

## **Individuals Whose Registrations Were Canceled/Suspended Pursuant To Article VI, Section 2 Of The NASD Code Of Procedures For Failure To Pay An Arbitration Award**

The date the suspensions began is listed after each entry.

**Marc Canatella**, Buffalo, New York (February 7, 1996)  
**Dominick Schina**, Voorhees, New Jersey (February 1, 1996)

### **Hibbard Brown & Co., Inc., Fined \$10 Million And Expelled From Membership**

The NASD announced that it has expelled **Hibbard Brown & Co., Inc. (Hibbard Brown)**, levied a fine of \$10 million, and imposed other sanctions against **Hibbard Brown, Richard P. Brown (Brown)**, its president, and **DeJuan Stroud (Stroud)**, its compliance officer for defrauding retail customers in the sale of the securities of two public companies.

Pursuant to the disciplinary action taken by the NASD Market Surveillance Committee, respondents Hibbard Brown (which is currently in Chapter 11 bankruptcy), Brown and Stroud submitted an Offer of Settlement in which they consented to findings of facts and violations while neither admitted nor denied the allegations in the Complaint. Sanctions imposed against Hibbard Brown include a censure, expulsion from membership in the Association and a fine of \$10 million.

Stroud is censured, barred from association with any member in any principal capacity, suspended from association with any member of the Association in any capacity for one year, and fined \$25,000.

Brown is censured, barred from association with any member in any capacity, barred from directly or indirectly owning more than 5 percent interest in any Nasdaq company or serving as an officer, director or control person of a Nasdaq company, and is fined \$300,000.

All of the funds recovered from regulatory fines assessed by the NASD against Hibbard Brown, Brown, and Stroud will be deposited into a special settlement pool, administered through the bankruptcy proceeding, that will be used to compensate investors.

Hibbard Brown and Brown consented to findings that during the period September through October 1990, Hibbard Brown, Brown and others, directly or indirectly, willfully or recklessly, engaged in a manipulative, fraudulent, and deceptive scheme in connection with transactions in the common stock of First National Realty Associates, Inc. (FNRA). During this same period Hibbard Brown, Brown and others sold FNRA stock to customers in approximately 6,305 principal transactions at unfair prices that were not reasonably related to the prevailing market price for the securities, and failed to disclose to customers such facts. Such excessive charges to customers were 100 percent to 145 percent over the prevailing market price of these securities.

Hibbard Brown and Brown also consented to findings that during the period January 17 through February 15, 1990, Hibbard Brown, acting through Brown and/or other persons associated with Hibbard Brown sold the common stock of Linkon Corporation (LKON) in 3,551 principal transactions to customers at fraudulently excessive prices that were not reasonably related to the prevailing market price and failed to disclose to customers such

facts. Customers were charged excessive markups of 140 percent over the prevailing market price of the securities.

Hibbard Brown and Stroud consented to findings that Hibbard Brown failed to make filings with the SEC as required by Securities Exchange Act Rule 13d-1(b)(1) when Hibbard Brown had ownership of securities exceeding 10 percent of the outstanding shares of FNRA. Stroud was responsible for reviewing the firm's trading positions to determine if such filings were required.

Hibbard Brown, Brown, and Stroud also consented to findings that they failed to establish, maintain, and enforce written supervisory procedures to detect and deter the conduct alleged in the other causes of the complaint.

Additionally, Hibbard Brown consented to findings that it failed to disclose to its customers that it controlled or was under common control with FNRA; that its representatives expressly or impliedly represented to customers that FNRA and LKON common stock was being offered "at the market" when Hibbard Brown dominated and controlled the market for both stocks and had no reasonable grounds to believe that a market existed for either FNRA and LKON other than those made, created or controlled by Hibbard Brown. Further, Hibbard Brown consented to findings that it sold FNRA and LKON common stock, underlying FNRA and LKON warrants, prior to FNRA and LKON updating post-effective amendments registering those securities; that it failed to preserve and maintain records related to commission payments to its representatives; and, that Hibbard Brown permitted an individual that was not active in its investment banking or securities business to remain in a registered capacity.

As part of the settlement agreement, Hibbard Brown and Brown also agree to withdraw their appeals in the U.S. Court of Appeals for the Third Circuit of an SEC Administrative proceeding. In this case, the SEC affirmed a 1994 NASD disciplinary action that expelled Hibbard Brown as an NASD member, ordered it to pay \$8.7 million in restitution to defrauded customers and barred Brown in all capacities.

"This enforcement action by the NASD is a victory for every investor who is defrauded by Hibbard Brown," said John E. Pinto, Executive Vice President, Regulation. "The interests of the investing public have been well served by the severe sanctions imposed in this matter. And although the firm is now under the protection of the bankruptcy court, this fine increases the portion of the bankruptcy proceeds that will be used to pay investors."

This matter was investigated by the Market Surveillance Department and the NASD District 10 Office in New York City. This disciplinary action was taken by the NASD Market Surveillance Committee, which consists of professionals from securities firms around the country. The Committee is responsible for maintaining the integrity of The Nasdaq Stock Market and over-the-counter markets and for disciplining NASD members and their associated persons who fail to comply with market-related securities laws.