Monthly Disciplinary Actions September 1996

Unless otherwise indicated, suspensions will begin with the opening of business on Monday, September 16, 1996. The information relating to matters contained in this section is current as of September 5, 1996. Information received subsequent to September 5, 1996, is not reflected in this section.

Firm Expelled, Individual Sanctioned

Banc Street Securities, Inc. (Milwaukee, Wisconsin) and **Gerald William Patterson (Registered Principal, Wauwatosa, Wisconsin)**. The firm was fined $10,000 and expelled from membership in the NASD. Patterson was fined $25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Patterson, filed inaccurate net capital computations and an inaccurate FOCUS Part IIA report with the NASD. The firm and Patterson also failed to respond to NASD requests for information.

Firm Fined, Individuals Sanctioned

Helix Securities, Inc. (Salt Lake City, Utah), Willard N. Kilgrow (Registered Representative, Draper, Utah), and **Patricia L. Faulkner (Registered Principal, Salt Lake City, Utah)**. The firm was fined $75,000 and Kilgrow was fined $25,000, suspended from association with any NASD member in any capacity for 90 days, and required to requalify by exam. Faulkner was fined $15,000, suspended from association with any NASD member in any capacity for 60 days, and required to requalify by exam. The sanctions were based on findings that the firm and Kilgrow engaged in a manipulative scheme to increase the price of a common stock. The firm and Faulkner also failed to enforce supervisory procedures and failed to supervise Kilgrow in order to deter and detect the aforementioned activities.

Firm And Individual Fined

Harris Webb & Garrison, Inc. (Houston, Texas) and **Robert J. Wilson (Registered Principal, Sugar Land, Texas)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined $10,000, jointly and severally. The firm also must hire a full-time financial and operations principal and Wilson must requalify by examination as a financial and operations 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 Wilson, failed to comply with the (k)(2)(ii) exemption under Rule 15c3-3 under the Securities and Exchange Act of 1934, as amended. The findings also stated that the firm, acting through Wilson, engaged in a securities business while failing to maintain its minimum required net capital.

Firms Fined

Auerbach, Pollack & Richardson, Inc. (Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined $75,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in a securities business while failing to maintain its minimum required net capital. The NASD also found that the firm allowed an associated person to function as a registered representative before becoming registered with the NASD. The findings also stated that the firm failed to adequately enforce its written supervisory procedures and to supervise the activities of its registered supervisory personnel to achieve compliance with applicable securities laws and regulations.

CS First Boston Corporation (New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined $17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to honor quotations it caused to be disseminated through Nasdaq®.

Individuals Barred Or Suspended

Abisoye Ibraheem Adekoya (Registered Principal, Chicago, Illinois) was fined $90,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Adekoya participated in private securities transactions and failed to provide prior written notice to and obtain approval from his member firms.

Paul B. Andrews (Registered Principal, Walpole, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent 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, Andrews consented to the described sanctions and to the entry of findings that he canceled option transactions in his personal securities account and, without the knowledge or consent of his member firm, transferred losses from the transactions to the firm's error account.

John J. Ball, Jr. (Registered Principal, Randolph, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent 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, Ball consented to the described sanctions and to the entry of findings that he canceled option transactions in his personal securities account and, without the knowledge or consent of his member firm, transferred losses from the transactions to the firm's error account.

James M. Bock (Registered Representative, Chatham, New Jersey), Jeffrey Streich (Registered Representative, New York, New York) and **Keith Youngswick (Registered Representative, New York, New York)** submitted Offers of Settlement pursuant to which Bock was fined $8,500, suspended from association with any NASD member in any capacity for 10 business days, and prohibited from accepting buy or sell orders for retail customers in non-Nasdaq, over-the-counter securities. Bock was also prohibited from receiving any commissions or commission equivalents from retail trades in non-Nasdaq, over-the-counter securities for two years. Streich was fined $25,000, suspended from association with any NASD member in any capacity for 20 business days, and prohibited from accepting buy or sell orders for retail customers in non-Nasdaq, over-the-counter securities. Streich was also prohibited from receiving any commissions or commission equivalents from retail trades in non-Nasdaq, over-the-counter securities for three years. Youngswick was fined $35,000, suspended from association with any NASD member in any capacity for six months, required to requalify by exam, and prohibited from accepting buy or sell orders for retail customers in non-Nasdaq, over-the-counter securities. Youngswick was also prohibited from receiving any commissions or commission equivalents from retail trades in non-Nasdaq, over-the-counter securities for five years. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they executed trades in violation of the penny stock rules. The NASD also found that Youngswick prepared and produced for the NASD false records and provided false information during NASD interviews.

Bock's suspension began August 12, 1996, and concluded August 23, 1996.

Streich's suspension began August 12, 1996, and will conclude September 16, 1996.

Youngswick's suspension began August 12, 1996, and will conclude February 16, 1997.

Daniel Eugene Boyd (Registered Representative, Ashburn, Virginia), Gregory J. Hilsenrath, Registered Principal, Bethesda, Maryland), William Francis Knight (Registered Principal, New York, New York), Frank Nicholas Rossani (Registered Representative, Brooklyn, New York), Corey D. Singman (Registered Principal, Brooklyn, New York), Michael E. Dudley (Registered Representative, Bethesda, Maryland), and **Michael McGinnis (Registered Representative, Las Vegas, Nevada)**. Boyd, Hilsenrath, Knight, Rossani, Singman, and Dudley submitted Offers of Settlement pursuant to which Boyd was fined $10,397.75 and suspended from recommending any penny stock transactions for two years. Hilsenrath was fined $27,615.46, suspended from recommending any penny stock transactions for five years, and suspended from association with any NASD member as a general securities principal for two years. Knight was fined $16,721.40, suspended from recommending any penny stock transactions for five years, and suspended from association with any NASD member as a general securities principal for two years. Rossani was fined $5,320 and suspended from recommending penny stock transactions for one year. Singman was fined $15,000, suspended from recommending any penny stock transactions for five years, and suspended from association with any NASD member as a general securities principal for two years. Dudley was fined $2,577.50 and suspended from recommending any penny stock transactions for one year. In a separate decision, McGinnis was fined $25,581.10 and barred from association with any NASD member in any capacity.

Without admitting or denying the allegations, Boyd, Hilsenrath, Knight, Rossani, Singman, and Dudley consented to the described sanctions and to the entry of findings that the respondents effected penny stock transactions for public customers in contravention of Securities and Exchange Commission (SEC) Rule 15g. The findings also stated that Hilsenrath, Knight, and Singman failed to supervise sales representatives to prevent ongoing penny stock violations and failed to respond adequately to red flag warning signals indicating that the sales representatives were continuing to violate the penny stock rules by improperly relying on the non-recommended transaction exemption.

The NASD found that Hilsenrath, Knight, and Singman permitted employees to solicit investors to purchase penny stocks and to accept orders from customers without the benefit of registration with the NASD. In addition, the NASD determined that Boyd and Rossani solicited investors to purchase penny stocks and accepted orders from customers without being registered with the NASD. McGinnis also failed to respond to an NASD request for information.

Jack John Brillouet (Registered Representative, Leavenworth, Kansas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000, barred from association with any NASD member in any capacity, and must pay restitution to any party or parties entitled. Without admitting or denying the allegations, Brillouet consented to the described sanctions and to the entry of findings that he received $234 from a public customer intended as payment of an insurance premium. Brillouet instead, converted the monies for his own use and benefit without the knowledge or consent of the customer.

Peter C. Bucchieri (Registered Principal, Las Vegas, Nevada) was fined $25,000, required to provide proof of payment of an arbitration award to customers, and required to pay $50,979 in restitution to customers. If Bucchieri fails to show proof of payment of restitution and the arbitration award, he must cease association with any NASD member in any capacity. Additionally, Bucchieri was suspended from association with any NASD member in any capacity for 60 days and barred from association with any NASD member as a general securities principal. The SEC affirmed the sanctions following appeal of a May 1995 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that Bucchieri effected discretionary transactions in the accounts of public customers that were excessive in size or frequency, in view of the financial resources and character of the customers' securities accounts.

Terry L. Burke (Registered Representative, Schenectady, New York) submitted an Offer of Settlement pursuant to which he was fined $50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Burke consented to the described sanctions and to the entry of findings that he converted customers checks totaling $17,221.33 for his own use and benefit.

John J. Carroccia, III (Registered Representative, Orchard Park, New York) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Carroccia failed to respond to NASD requests to appear for an investigative interview.

Brian T. Cottrell (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 Cottrell purchased and sold securities for the account of a public customer without the customer's knowledge or consent and in the absence of written or oral authorization to exercise discretion in the account. Cottrell also failed to respond to NASD requests for information.

James Lee Delliquanti (Registered Representative, Rancho Santa Margarita, California) was fined $25,000, suspended from association with any NASD member in any capacity for 15 business days, and ordered to requalify by exam as a general securities representative. The sanctions were based on findings that Delliquanti made unsuitable recommendations to public customers without having grounds for believing that they were suitable for the customers in view of the size, frequency, and nature of the recommended transactions and the customers' other securities holdings, financial situations, circumstances, and needs.

Fred Devereaux, Jr. (Registered Representative, Los Angeles, California) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Devereaux failed to respond to NASD requests for information about possible unauthorized trading in a customer's account.

Kristi Lee Devine (Registered Representative, Windham, New Hampshire) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Devine failed to respond to NASD requests for information about a customer complaint.

Michael P. Devine (Registered Representative, Bedford, New Hampshire) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Devine consented to the described sanctions and to the entry of findings that he purchased securities for the accounts of public customers without their authorization.

Patrick J. Doherty (Registered Representative, Milwaukee, Wisconsin) was fined $100,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Doherty failed to promptly and accurately update his Uniform Application for Securities Industry Registration (Form U-4) to reflect a felony conviction. Doherty also obtained $5,000 from a public customer for the purchase of a mutual fund and instead, used the funds for some purpose other than for the benefit of the customer.

George Draghiceanu (Registered Representative, Dearborn, Michigan) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Draghiceanu forged a public customer's name to an insurance reinstatement form, reinstated the customer's disability income insurance with his member firm, and paid a $140 reinstatement fee for the customer, all without the customer's knowledge or consent. Draghiceanu also failed to respond to NASD requests for information.

Brian C. Drew (Registered Representative, San Gabriel, California) was fined $36,206.60, barred from association with any NASD member in any capacity, and ordered to pay $3,241.32 in restitution to a member firm. The sanctions were based on findings that Drew misused $3,241.32 in public customers' funds that were intended as insurance premium payments. Drew also failed to respond to NASD requests for information.

Edward Sarthou Escalante (Registered Representative, Daly City, California) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Escalante failed to respond to NASD requests for information.

Emanuel Feit (Registered Representative, Bowling Green Station, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000, barred from association with any NASD member in any capacity, and required to pay $23,100 in restitution to public customers. Without admitting or denying the allegations, Feit consented to the described sanctions and to the entry of findings that he caused 13 buy and sell transactions to be effected for the accounts of public customers without their knowledge or authorization. The findings also stated that to conceal his actions, Feit changed the addresses of public customers to fictitious addresses.

David M. Gass (Registered Representative, White Plains, New York) was fined $7,500, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam as a general securities representative. The sanctions were based on findings that Gass conducted unauthorized transactions in the accounts of public customers.

Brian L. Gibbons (Registered Representative, Scottsdale, Arizona) was fined $10,000 and suspended from association with any NASD member in any capacity for 30 days. The SEC affirmed the sanctions following appeal of an October 1995 NBCC decision. The sanctions were based on findings that Gibbons provided inaccurate and misleading information to the NASD staff in response to NASD requests for information.

This action has been appealed to the U.S. Court of Appeals, and the sanctions are not in effect, pending consideration of the appeal.

Alex Gincherman (Registered Representative, Brooklyn, New York) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Gincherman failed to respond to NASD requests for information.

Malcolm Hadley Gissen (Registered Principal, San Francisco, California) submitted an Offer of Settlement pursuant to which he was fined $10,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Gissen consented to the described sanctions and to the entry of findings that he participated in the purchase of limited partnership interests by investors without providing prior written notification to his member firm.

Raymond Hjalmar Lubeck, Jr. (Registered Representative, Barcelona, Spain) was fined $25,000, suspended from association with any NASD member in any capacity for 30 days, and barred from association with any NASD member in a principal capacity. The sanctions were based on findings that Lubeck acted as a principal without being registered with the NASD as a principal.

Christopher A. Medina (Registered Representative, Aurora, Colorado) submitted an Offer of Settlement pursuant to which he was fined $20,000, suspended from association with any NASD member in any capacity for 30 business days, and required to requalify by exam as a registered representative. Without admitting or denying the allegations, Medina consented to the described sanctions and to the entry of findings that he exercised discretion in a customer's account without written authorization or acceptance of the account as discretionary by his member firm. The findings also stated that Medina engaged in unsuitable and excessive trading while exercising discretion in the same customer account. Furthermore, the NASD determined that Medina signed a public customer's name to a margin account agreement without the customer's authorization.

Timothy J. O'Connor (Registered Representative, Hicksville, New York) was fined $30,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that O'Connor failed to disclose the complete details of an arrest and conviction on his Form U-4. O'Connor also failed to respond to NASD requests for information.

John G. Pearce (Registered Principal, West Palm Beach, Florida) was fined $10,000 and suspended from association with any NASD member in any capacity for 90 days and thereafter until he satisfies an arbitration award. The SEC affirmed the sanctions following appeal of an August 1995 NBCC decision. The sanctions were based on findings that Pearce failed to pay an $85,000 arbitration award.

Rafael Angel Pinkay (Registered Representative, Whitestone, New York) was fined $100,000, barred from association with any NASD member in any capacity, and required to pay $50,000 plus interest in restitution to customers. The sanctions were based on findings that Pinkay received $50,000 from public customers for the purchase of mutual funds and investments, failed to deposit these funds for credit to the individuals' accounts or invest them on their behalf, and instead, converted and stole the monies for his own benefit. To conceal his theft, Pinkay prepared false and fraudulent account statements that appeared to be on the stationary of his member firm. Pinkay also failed to respond to NASD requests for information.

Thomas H. Poole (Registered Representative, Chicago, Illinois) was fined $25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Poole obtained $550.20 from a public customer with instructions to use the funds to reinstate insurance policies and pay for other policies. Poole failed to follow the instructions and used only $394.80 as instructed and used the remaining $155.40 for some purpose other than the benefit of the customers. Poole also failed to respond to NASD requests for information.

Wade Rondo Price (Registered Representative, Portland, Oregon) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Price consented to the described sanctions and to the entry of findings that he accepted checks totaling $13,000 from public customers intended for the purchase of mutual fund shares, endorsed the checks, and converted the funds to his own use and benefit.

Scott D. Purcell (Registered Principal, Corona Del Mar, California) submitted an Offer of Settlement pursuant to which he was fined $10,000 and suspended from association with any NASD member as a general securities principal for 30 days. Without admitting or denying the allegations, Purcell consented to the described sanctions and to the entry of findings that he failed to accurately compute the amount required to be deposited in the special reserve bank account for the exclusive benefit of customers for his member firm and failed to deposit the required amount into the account. The findings also stated that Purcell, on behalf of his member firm, failed to maintain possession and control of all fully-paid-for customers' securities. The NASD also found that the firm, acting through Purcell, made withdrawals from its reserve bank account, but failed to make a computation of the firm's reserve requirements on which the firm could rely as a basis for making the withdrawals.

Timothy Joseph Randall (Registered Representative, Alvord, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Randall consented to the described sanctions and to the entry of findings that he borrowed $112,500 from six clients of his member firm and failed to repay them.

Barry Kirk Robertson (Registered Representative, Foothills Ranch, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $15,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Robertson consented to the described sanctions and to the entry of findings that he obtained $10,000 from a public customer intended for investment purposes and, contrary to the customers instructions, he retained the funds for his own use and benefit. The NASD also found that Robertson prepared and sent to the same customer a document purporting to evidence an investment in a group pension contract when no such investment had been made.

Erling O. Rolfson, Jr. (Registered Representative, New Rockford, North Dakota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $34,500 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rolfson consented to the described sanctions and to the entry of findings that he received checks totaling $6,864 made payable to two customers. The NASD found that without the knowledge or consent of the customers, Rolfson misused the funds by forging the customers' signatures on the checks, depositing them in his agency account, and failing to remit the funds to the customers until a later time.

William J. Roos (Registered Representative, Redondo Beach, California) was fined $25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Roos gave false responses to questions on his Form U-4 regarding his criminal history.

George Scharf (Registered Representative, Patchogue, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Scharf consented to the described sanctions and to the entry of findings that he received $2,260 from public customers intended for securities investment and, without their knowledge or consent, misappropriated the funds for his own use and benefit.

James Henry Shelffo (Registered Representative, Reno, Nevada) was fined $240,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Shelffo received $40,000 from a public customer and converted the funds to his own use and benefit.

Andrew Robert Spanton (Registered Representative, Hicksville, New York) 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 five business days. Without admitting or denying the allegations, Spanton consented to the described sanctions and to the entry of findings that he caused option purchase transactions to be entered for his personal securities account without making payment for such transactions as required pursuant to Regulation T of the Board of Governors of the Federal Reserve System. The NASD also found that Spanton issued a check from his bank account towards payment of the option transactions and knew, or should have known, that he did not have sufficient funds in the checking account.

Adam A. Starkweather (Registered Representative, Chapel Hill, North Carolina) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Starkweather consented to the described sanction and to the entry of findings that he converted $3,000 in customer funds for his own use and benefit. The findings also stated that Starkweather forged the signature of a public customer on a form used to borrow money from the customer's insurance policy.

Juan A. Taylor (Registered Representative, Laurel, Maryland) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Taylor failed to respond to NASD requests for information about his termination from a member firm.

Timothy L. Thompson (Registered Representative, Howell, New Jersey) was fined $20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Thompson failed to respond to NASD requests for information about customer complaints.

John Yakimczyk (Registered Representative, Aurora, Colorado) and **Howard Frank (Registered Principal, Denver, Colorado)** submitted an Offer of Settlement pursuant to which Yakimczyk was fined $25,000 and suspended from association with any NASD member in any capacity for two years. Frank was fined $2,500 and suspended from association with any NASD member in any principal or supervisory capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Yakimczyk recommended that customers purchase stock without disclosing that he had received the stock from the issuer as compensation for consulting services and was selling that stock at the same time the customers were purchasing. The NASD also found that Frank failed to supervise Yakimczyk adequately in connection with the above activity. The findings also stated that Yakimczyk failed to notify his member firm of brokerage accounts maintained at a Canadian broker/dealer in which he received additional stock at the same time as the aforementioned activities.

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

LP Charles & Company, Inc., Denver, Colorado

Petroleum Commodities & Realty, Inc., Plano, Texas

The Wellington Group, Inc., New York, New York

Westmark Securities Corp., Santa Monica, California

Firms Suspended

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 (formerly Article IV, Section 5 of the NASD Rules of Fair Practice) and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after each entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Freeman Financial Services, Inc., Newport Beach, California (July 15, 1996)

The Investment Firm, Dubuque, Iowa (July 29, 1996)

Suspensions Lifted

The NASD has lifted suspensions from membership on the dates shown for the following firms because they have complied with formal written requests to submit financial information.

Donnellan Haylett & Co., Inc., Sarasota, Florida (August 1, 1996)

Magdensburg Securities Corp., New York, New York (July 26, 1996)

Meridian Equities Company, Jackson, New Jersey (July 2, 1996)

On-line Notes & Mortgages, Inc., Albuquerque, New Mexico (July 26, 1996)

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

Roy B. Ageloff, Staten Island, New York

Otis J. Alexander, Tacoma, Washington

William W. Bolles, Charlotte, North Carolina

James W. Bullard, Jr., Miami Beach, Florida

John E. Cathcart, Scottsdale, Arizona

Robert F. Catoggio, Staten Island, New York

Gary D. Edwards, Graham, Texas

Robert P. Jackson, Fort Worth, Texas

Robert W. Kendrick, San Francisco, California

James W. Lyons, Atlanta, Georgia

Robert E. McDaniel, South Palm Beach, Florida

Sione Tangen, San Francisco, California

Breck A. Willbond, Elyria, Ohio

Darrell K. Woolley, Rancho Mirage, California

Individuals Whose Registrations Were Canceled/Suspended Pursuant To NASD Rule 9622 For Failure To Pay Arbitration Awards

Thomas Garrett Chenoweth, Lexington Park, Maryland

James F. Greene, Del Ray Beach, Florida

David Jason Grey, New York, New York

Edward Arthur McKay, Jr., New York, New York

Joseph Schmidt, Oregon City, Oregon

NASD Regulation Fines AmSouth Investment Services For Mutual Fund Sales Violations

NASD Regulation, Inc. (NASD Regulation) fined AmSouth Investment Services, Inc., $150,000 and censured the Birmingham, Alabama firm in connection with the marketing and sale of various mutual fund products.

AmSouth also consented to NASD Regulation's findings that the firm improperly paid transaction-related compensation to employees of its bank affiliate to generate business for the brokerage business, in violation of NASD Regulation℠ rules.

NASD Regulation found that AmSouth neither documented its performance of a due diligence review of certain mutual funds nor maintained new account documents for certain customers. Therefore, the firm could not demonstrate that these investments were suitable for its customers. AmSouth also made misleading written statements about one of the funds to certain customers, and failed to prepare and maintain adequate books and records concerning the sale of the funds.

Many of the sales-practice violations occurred because AmSouth's supervision system was inadequate. AmSouth also did not file required statistical and summary information on customer complaints with NASD Regulation on time.

"Broker/dealer firms must be especially vigilant and ensure that customers who purchase mutual funds on the premises of banks understand the risks and rewards of those investments," said NASD Regulation President Mary Schapiro. "We are continuing our efforts to safeguard investor interests by focusing our investigations on these important issues and by initiating disciplinary actions when appropriate. Our recent rule proposals concerning the conduct of our member firms who sell securities on the premises of financial institutions is a significant effort to focus on disclosure and investor protection issues."

AmSouth has agreed to a compliance audit of internal policies and procedures by an independent party. The firm will also develop a revised Supervision and Compliance Manual, which will include a clearly defined organization structure and indicate various areas of supervisory responsibility. The revised manual will be subject to review by the independent party. The audit results and the revised manual are subject to review by NASD Regulation.

The disciplinary action was authorized by NASD Regulation's District 5 Business Conduct Committee. Schapiro praised the cooperative investigative efforts of the District 5 Office and the Alabama Securities Commission, which conducted a joint investigation. "This is an excellent example of NASD Regulation's commitment to coordinate enforcement efforts with state regulators," Schapiro said.

NASD Regulation Obtains $1 Million-Plus In Restitution For Investors From H.J. Meyers

NASD Regulation, Inc. (NASD Regulation) obtained more than $1 million in restitution for about 3,000 customers who were charged unfair prices in seven securities traded by H.J. Meyers & Co., Inc., between 1990 and 1993.

NASD Regulation fined the firm and 22 of its current and former managers and sales representatives a total of nearly $500,000 in connection with the three-year unfair pricing practice. H.J. Meyers was also censured by NASD Regulation.

This restitution is one of the largest refunds ever obtained for investors by the NASD, and reinforces our commitment to customer protection, said NASD Regulation President Mary L. Schapiro. Individual sales representatives and senior management share equally the responsibility to ensure that customers are treated honestly and receive fair market prices.

Based in Rochester, NY, H.J. Meyers employs more than 700 people, including 480 brokers, in 15 offices throughout the country.

The overcharging at H.J. Meyers was uncovered after a lengthy investigation by NASD Regulation's Enforcement Department in Washington and its District 8 Office in Cleveland.

The settlements with the firm and the 22 individual brokers-in which they consented to NASD Regulation's findings without admitting or denying the allegations-requires the firm to make restitution of $1,025,000 to the almost 3,000 customers who were overcharged. H.J. Meyers will notify each investor who is entitled to restitution, and make all necessary payments within 120 days.

The $1 million-plus restitution is in addition to the almost $517,000 H.J. Meyers has already credited to certain customers accounts. The final amount of restitution may increase significantly, based on the results of a full accounting that is still in progress. H.J. Meyers has agreed to make additional restitution payments if needed.

The firm will also pay a $250,000 fine to NASD Regulation and must improve its oversight function by, among other things, hiring an independent consultant to review and monitor for one year the firm's trading policies and procedures.

Michael L. Vanechanos, the firm's head trader, was fined $100,000, suspended for six months from acting in any principal or supervisory capacity, including a 45-day suspension from acting in any capacity at all, and censured.

The firm's President, James A. Villa, was fined $25,000, suspended for 20 business days in all capacities, and censured.

NASD Regulation found that H.J. Meyers, acting through Vanechanos, dominated and controlled the trading in seven securities (in some cases stocks and warrants of the same issuer) to such an extent that there was no active, competitive market. The securities involved were: Acqua Group, Inc., common stock and warrants; Vision Ten, Inc., common stock; Xerographic Laser Images Corp., common stock and warrants; and Integrated Security Systems, Inc., common stock and warrants.

As a result, H.J. Meyers and Vanechanos were able to charge retail customers unfair markups and markdowns that ranged from five percent to as much as 50 percent over the prevailing market price for the seven securities. NASD Regulation found there were a total of 4,824 separate transactions, almost two-thirds of which, or 3,206, were fraudulent because the markup or markdown exceeded 10 percent. Generally, markups or markdowns of more than 10 percent are considered fraudulent under NASD Regulation rules.

NASD Regulation also found that H.J. Meyers and Villa failed to implement and/or enforce the firms written supervisory procedures concerning markups and markdowns.

Troy M. Peters of Poway, California, a former H.J. Meyers branch manager, was fined $5,000 by NASD Regulation, suspended for three business days, and censured. Peters was cited for failure to supervise. To re-enter the securities industry as a principal or supervisor, Peters must requalify by examination.

In separate settlements, an additional 19 brokers were fined, suspended, and censured. NASD Regulation found that these individuals were also responsible for overcharging retail customers because they accepted excessive gross commissions or sales credits in sales of Xerographic and/or Integrated securities.

Their specific sanctions follow:

Michael Hall, Lake Forest, California ($7,500 fine, ten-day suspension, censure)

Richard Van Steen, Boca Raton, Florida ($5,000 fine, ten-day suspension, censure)

Louis P. Arena, Holmdel, New Jersey ($5,000 fine, five-day suspension, censure)

Joseph J. Olmsted, Denver, Colorado ($5,000 fine, five-day suspension, censure)

Kraig Kuchukian, Vernon Hills, Illinois ($5,000 fine, five-day suspension, censure)

Matt C. Moniak, San Diego, California ($5,000 fine, five-day suspension, censure)

Richard J. Monello, Scottsdale, Arizona ($5,000 fine, three-day suspension, censure)

John Michael Johnson, San Diego, California ($5,000 fine, three-day suspension, censure)

Robert D. Luecke, San Diego, California ($5,000 fine, three-day suspension, censure)

William Manzullo, New York, New York ($5,000 fine, three-day suspension, censure)

Robert P. Rifkin, Irvine, California ($2,500 fine, five-day suspension, censure)

Allen W. Branam, North Richland Hills, Texas ($2,500 fine, five-day suspension, censure)

Patrick T. Donahue, Hamburg, New York ($2,500 fine, three-day suspension, censure)

Robert J. Fiore, Jr., Pompano Beach, Florida ($2,500 fine, three-day suspension, censure)

Patrick J. Donelan, Delray Beach, Florida ($2,500 fine, three-day suspension, censure)

Howard H. Thomson, Long Beach, California ($2,500 fine, three-day suspension, censure)

John M. Hurley, Monmouth Beach, New Jersey ($2,500 fine, three-day suspension, censure)

John B. Flanagan, Boca Raton, Florida ($2,500 fine, three-day suspension, censure)

George F. Mucci, III, Sicklerville, New Jersey (three-day suspension, censure)

All of the these violations occurred at Thomas James Associates, Inc., which later acquired H. J. Meyers, and operates under that name today.

The terms of these settlements were accepted by the District Business Conduct Committee for District 8, in Chicago, and approved by the National Business Conduct Committee.